

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

(articles 19, 22 and 35 of the Constitution)

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

Report III (Part 1A)

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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The **Committee of Experts on the Application of Conventions and Recommendations** is an independent body composed of legal experts charged with examining the application of ILO Conventions and Recommendations in ILO member States. The annual report of the Committee of Experts covers numerous matters related to the application of ILO standards. The structure of the report, as modified in 2003, is divided into the following parts:

- (a) **Reader's note** describes the Committee's mandate, functioning and the institutional context in which it operates (**Book 1A, pages 1-4**).
- (b) **Part I: General Report** describes the extent to which member States have fulfilled their constitutional obligations in relation to international labour standards, and emphasizes important issues concerning the relationships between the international labour standards and the multilateral system (**Book 1A, pages 7-29**).
- (c) **Part II: Observations concerning particular countries** on the application of ratified Conventions presented by subject matter (see section I), and on the obligation to submit instruments to the competent authorities (see section II) (**Book 1A, pages 33-571**).
- (d) **Part III: General Survey**, in which the Committee of Experts examines the application of ILO standards, ratified or not ratified, in a particular subject area. The General Survey is published as a separate volume (Report III (Part 1B)) and this year examines the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105) (**Book 1B**).

Furthermore, the List of ratifications which has usually accompanied the Report of the Committee of Experts is now published as the ***Information document on ratifications and standards-related activities***, which provides an overview of recent developments in international labour standards, the implementation of special procedures, technical cooperation in relation to international labour standards, and tables relating to ratifications and respect for obligations by member States (**Book 2**).

The report of the Committee of Experts is also available at:

<http://www.ilo.org/ilolex/gbe/ceacr2007.htm>

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List of Conventions by Subject

Fundamental Conventions are in bold. Priority Conventions are in italics.

1 Freedom of Association, Collective Bargaining, and Industrial Relations

C011	Right of Association (Agriculture) Convention, 1921 (No. 11)
C084	Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)
C087	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
C098	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
C135	Workers' Representatives Convention, 1971 (No. 135)
C141	Rural Workers' Organisations Convention, 1975 (No. 141)
C151	Labour Relations (Public Service) Convention, 1978 (No. 151)
C154	Collective Bargaining Convention, 1981 (No. 154)

2 Forced Labour

C029	Forced Labour Convention, 1930 (No. 29)
C105	Abolition of Forced Labour Convention, 1957 (No. 105)

3 Elimination of Child Labour and Protection of Children and Young Persons

C005	Minimum Age (Industry) Convention, 1919 (No. 5)
C006	Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
C010	Minimum Age (Agriculture) Convention, 1921 (No. 10)
C015	Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)
C033	Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)
C059	Minimum Age (Industry) Convention (Revised), 1937 (No. 59)
C060	Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60)
C077	Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)
C078	Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)
C079	Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)
C090	Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)
C123	Minimum Age (Underground Work) Convention, 1965 (No. 123)
C124	Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)
C138	Minimum Age Convention, 1973 (No. 138)
C182	Worst Forms of Child Labour Convention, 1999 (No. 182)

4 Equality of Opportunity and Treatment

C100	Equal Remuneration Convention, 1951 (No. 100)
C111	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
C156	Workers with Family Responsibilities Convention, 1981 (No. 156)

5 Tripartite Consultation

C144	<i>Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)</i>
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6 Labour Administration and Inspection

C063	Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)
C081	<i>Labour Inspection Convention, 1947 (No. 81)</i>
C085	Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
C129	<i>Labour Inspection (Agriculture) Convention, 1969 (No. 129)</i>
C150	Labour Administration Convention, 1978 (No. 150)
C160	Labour Statistics Convention, 1985 (No. 160)

7 Employment Policy and Promotion

C002	Unemployment Convention, 1919 (No. 2)
C034	Fee-Charging Employment Agencies Convention, 1933 (No. 34)
C088	Employment Service Convention, 1948 (No. 88)
C096	Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)
C122	<i>Employment Policy Convention, 1964 (No. 122)</i>
C159	Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
C181	Private Employment Agencies Convention, 1997 (No. 181)

8 Vocational Guidance and Training

C140	Paid Educational Leave Convention, 1974 (No. 140)
C142	Human Resources Development Convention, 1975 (No. 142)

9 Employment Security

C158	Termination of Employment Convention, 1982 (No. 158)
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10 Wages

C026	Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)
C094	Labour Clauses (Public Contracts) Convention, 1949 (No. 94)
C095	Protection of Wages Convention, 1949 (No. 95)
C099	Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)
C131	Minimum Wage Fixing Convention, 1970 (No. 131)
C173	Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)

11 Working Time

C001	Hours of Work (Industry) Convention, 1919 (No. 1)
C004	Night Work (Women) Convention, 1919 (No. 4)
C014	Weekly Rest (Industry) Convention, 1921 (No. 14)
C020	Night Work (Bakeries) Convention, 1925 (No. 20)
C030	Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)
C041	Night Work (Women) Convention (Revised), 1934 (No. 41)
C043	Sheet-Glass Works Convention, 1934 (No. 43)
C047	Forty-Hour Week Convention, 1935 (No. 47)
C049	Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49)
C052	Holidays with Pay Convention, 1936 (No. 52)
C067	Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67)
C089	Night Work (Women) Convention (Revised), 1948 (No. 89)
C101	Holidays with Pay (Agriculture) Convention, 1952 (No. 101)
C106	Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)
C132	Holidays with Pay Convention (Revised), 1970 (No. 132)
C153	Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153)
C171	Night Work Convention, 1990 (No. 171)
C175	Part-Time Work Convention, 1994 (No. 175)

12 Occupational Safety and Health

C013	White Lead (Painting) Convention, 1921 (No. 13)
C045	Underground Work (Women) Convention, 1935 (No. 45)
C062	Safety Provisions (Building) Convention, 1937 (No. 62)
C115	Radiation Protection Convention, 1960 (No. 115)
C119	Guarding of Machinery Convention, 1963 (No. 119)
C120	Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
C127	Maximum Weight Convention, 1967 (No. 127)
C136	Benzene Convention, 1971 (No. 136)
C139	Occupational Cancer Convention, 1974 (No. 139)
C148	Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
C155	Occupational Safety and Health Convention, 1981 (No. 155)
C161	Occupational Health Services Convention, 1985 (No. 161)
C162	Asbestos Convention, 1986 (No. 162)
C167	Safety and Health in Construction Convention, 1988 (No. 167)
C170	Chemicals Convention, 1990 (No. 170)
C174	Prevention of Major Industrial Accidents Convention, 1993 (No. 174)
C176	Safety and Health in Mines Convention, 1995 (No. 176)
C184	Safety and Health in Agriculture Convention, 2001 (No. 184)

13 Social Security

C012	Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
C017	Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
C018	Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)
C019	Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
C024	Sickness Insurance (Industry) Convention, 1927 (No. 24)
C025	Sickness Insurance (Agriculture) Convention, 1927 (No. 25)
C035	Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35)
C036	Old-Age Insurance (Agriculture) Convention, 1933 (No. 36)
C037	Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)
C038	Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)
C039	Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39)
C040	Survivors' Insurance (Agriculture) Convention, 1933 (No. 40)
C042	Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)
C044	Unemployment Provision Convention, 1934 (No. 44)
C048	Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48)
C102	Social Security (Minimum Standards) Convention, 1952 (No. 102)
C118	Equality of Treatment (Social Security) Convention, 1962 (No. 118)
C121	Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)
C128	Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)
C130	Medical Care and Sickness Benefits Convention, 1969 (No. 130)
C157	Maintenance of Social Security Rights Convention, 1982 (No. 157)
C168	Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)

14 Maternity Protection

C003	Maternity Protection Convention, 1919 (No. 3)
C103	Maternity Protection Convention (Revised), 1952 (No. 103)
C183	Maternity Protection Convention, 2000 (No. 183)

15 Social Policy

C082	Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82)
C117	Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)

16 Migrant Workers

C021	Inspection of Emigrants Convention, 1926 (No. 21)
C097	Migration for Employment Convention (Revised), 1949 (No. 97)
C143	Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

17. Seafarers

C007	Minimum Age (Sea) Convention, 1920 (No. 7)
C008	Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)
C009	Placing of Seamen Convention, 1920 (No. 9)
C016	Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
C022	Seamen's Articles of Agreement Convention, 1926 (No. 22)
C023	Repatriation of Seamen Convention, 1926 (No. 23)
C053	Officers' Competency Certificates Convention, 1936 (No. 53)
C055	Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
C056	Sickness Insurance (Sea) Convention, 1936 (No. 56)
C058	Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
C068	Food and Catering (Ships' Crews) Convention, 1946 (No. 68)
C069	Certification of Ships' Cooks Convention, 1946 (No. 69)
C071	Seafarers' Pensions Convention, 1946 (No. 71)
C073	Medical Examination (Seafarers) Convention, 1946 (No. 73)
C074	Certification of Able Seamen Convention, 1946 (No. 74)
C091	Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
C092	Accommodation of Crews Convention (Revised), 1949 (No. 92)
C108	Seafarers' Identity Documents Convention, 1958 (No. 108)
C133	Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
C134	Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)
C145	Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
C146	Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)
C147	Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
C163	Seafarers' Welfare Convention, 1987 (No. 163)
C164	Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
C165	Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
C166	Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
C178	Labour Inspection (Seafarers) Convention, 1996 (No. 178)
C179	Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
C180	Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)
C185	Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

18. Fishers

C112	Minimum Age (Fishermen) Convention, 1959 (No. 112)
C113	Medical Examination (Fishermen) Convention, 1959 (No. 113)
C114	Fishermen's Articles of Agreement Convention, 1959 (No. 114)
C125	Fishermen's Competency Certificates Convention, 1966 (No. 125)
C126	Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)

19. Dockworkers

C027	Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)
C028	Protection against Accidents (Dockers) Convention, 1929 (No. 28)
C032	Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)
C137	Dock Work Convention, 1973 (No. 137)
C152	Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)

20 Indigenous and Tribal Peoples

C050	Recruiting of Indigenous Workers Convention, 1936 (No. 50)
C064	Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64)
C065	Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65)
C086	Contracts of Employment (Indigenous Workers) Convention, 1947 (No. 86)
C104	Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104)
C107	Indigenous and Tribal Populations Convention, 1957 (No. 107)
C169	Indigenous and Tribal Peoples Convention, 1989 (No. 169)

21 Specific Categories of Workers

C110	Plantations Convention, 1958 (No. 110)
C149	Nursing Personnel Convention, 1977 (No. 149)
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Reader's note

Overview of the ILO supervisory mechanisms

Since its creation in 1919, the mandate of the International Labour Organization (ILO) has included adopting international labour standards and promoting their ratification and application in its member States as a fundamental means of achieving its objectives. In order to monitor the progress of its member States in the application of international labour standards, the ILO has developed supervisory mechanisms which are unique at the international level.¹

Under article 19 of the ILO Constitution, a number of obligations arise for member States upon the adoption of international labour standards, including the requirement to submit newly adopted standards to national competent authorities and the obligation to report at intervals on measures taken to give effect to the provisions of unratified Conventions and Recommendations.

A number of supervisory mechanisms exist whereby the Organization examines the standards-related obligations of member States deriving from ratified Conventions. This supervision occurs both in the context of a regular procedure through annual reports (article 22 of the ILO Constitution),² as well as through special procedures based on complaints or representations to the Governing Body made by ILO constituents (articles 24 and 26 of the Constitution). Moreover, since 1950, a special procedure exists whereby complaints relating to freedom of association are referred to the Committee on Freedom of Association of the Governing Body. This Committee may also examine complaints relating to member States that have not ratified the relevant freedom of association Conventions.

Role of employers' and workers' organizations

As a natural consequence of its tripartite structure, the ILO was the first international organization to associate social partners directly in its activities. The participation of employers' and workers' organizations in the supervisory mechanism is recognized in the Constitution under article 23, paragraph 2, which provides that reports submitted by governments in accordance with articles 19 and 22 must be communicated to the representative organizations.

In practice, the representative employers' and workers' organizations may submit, to their governments, observations on the reports concerning implementation by the latter of ratified Conventions. They may, for instance, draw attention to a discrepancy in law or practice regarding a Convention and thus lead the Committee of Experts to request further information from the government. Furthermore, any employers' or workers' organization may submit observations on the application of Conventions directly to the Office. The Office will then forward these comments to the government concerned, which will have an opportunity to respond before the observations are examined by the Committee of Experts.

Origins of the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations

During the early years of the ILO, both the adoption of international labour standards and the regular supervisory work were undertaken within the framework of the plenary sitting of the annual International Labour Conference.

¹ For detailed information on all supervisory procedures, see *Handbook of procedures relating to international labour Conventions and Recommendations*, International Labour Standards Department, International Labour Office, Geneva, Rev. 2006.

² Reports are submitted every two years for so-called fundamental and priority Conventions, and every five years for others. Since 2003, reports have been due for groups of Conventions according to subject matter.

However, the considerable increase in the number of ratifications of Conventions led to a similarly significant increase in the number of annual reports submitted. It soon became clear that the plenary of the Conference would not be able to examine all these reports at the same time as adopting standards and discussing other important matters. In response, the Conference adopted in 1926 a resolution³ establishing on an annual basis a Conference committee (subsequently named the Conference Committee on the Application of Standards) and requesting the Governing Body to appoint a technical committee (subsequently named the Committee of Experts on the Application of Conventions and Recommendations) which would be responsible for drawing up a report for the Conference. These two committees have become the two pillars of the ILO supervisory system. This year marks the 80th anniversary of the decision to create these two bodies.

Committee of Experts on the Application of Conventions and Recommendations

Composition

The Committee of Experts is composed of 20 members⁴ who are outstanding legal experts at national and international level. Members of the Committee are appointed by the Governing Body upon the proposal of the Director-General. Appointments are made in a personal capacity among completely impartial persons of competence and independent standing drawn from all regions of the world, in order to enable the Committee to have at its disposal first-hand experience of different legal, economic and social systems. The appointments are made for renewable periods of three years. In 2002, the Committee decided that there would be a limit of 15 years' service for all members, representing a maximum of four renewals after the first three-year appointment. The Committee also decided to elect a Chairperson for a non-renewable period of five years and, at the start of each session, a Reporter.

Mandate

The Committee of Experts meets annually in November–December. In accordance with the mandate given by the Governing Body,⁵ the Committee is called upon to examine the following:

- the annual reports under article 22 of the Constitution on the measures taken by member States to give effect to the provisions of the Conventions to which they are parties;
- the information and reports concerning Conventions and Recommendations, communicated by member States in accordance with article 19 of the Constitution;
- information and reports on the measures taken by member States in accordance with article 35 of the Constitution.⁶

The task of the Committee of Experts is to indicate the extent to which each member State's legislation and practice is in conformity with ratified Conventions and the extent to which member States have fulfilled their obligations under the ILO Constitution in relation to standards. In carrying out this task, the Committee adheres to its principles of independence, objectivity and impartiality.⁷

The comments of the Committee of Experts on the fulfilment by member States of their standards-related obligations take the form of either *observations* or *direct requests*. Observations contain comments on fundamental questions raised by the application of a particular Convention by a member State. These observations are reproduced in the annual report of the Committee of Experts, which is then submitted to the Conference Committee on the Application of Standards in June every year. Direct requests usually relate to questions of a more technical nature or of lesser importance, or contain requests for information. They are not published in the report of the Committee of Experts, but are communicated directly to the government concerned.⁸ In addition, the Committee of Experts examines the application of ILO standards, ratified or not ratified, in a particular subject area decided by the Governing Body. This examination takes the form of a General Survey. This year's General Survey considers forced labour.

Report of the Committee of Experts

As a result of its work, the Committee produces an annual report. The structure of the report is divided into the following parts:

³ See Appendix VII, proceedings of the Eighth Session of the International Labour Conference, 1926, Vol. 1.

⁴ 18 experts are currently appointed.

⁵ Terms of reference of the Committee of Experts, Minutes of the 103rd Session of the Governing Body (1947), Appendix XII, para. 37.

⁶ Article 35 covers the application of Conventions applied to non-metropolitan territories.

⁷ In its 1987 report, the Committee stated that in its evaluation of national law and practice in relation to the requirements of international labour Conventions: "... its function is to determine whether the requirements of a given Convention are being met, whatever the economic and social conditions existing in a given country. Subject only to any derogations, which are expressly permitted by the Convention itself, these requirements remain constant and uniform for all countries. In carrying out this work, the Committee is guided by the standards laid down in the Convention alone, mindful, however, of the fact that the modes of their implementation may be different in different States".

⁸ Observations and direct requests are accessible through the ILOLEX database which is available on CD-ROM and via the ILO web site (www.ilo.org/normes).

- **Part I: General Report** describes, on the one hand, the progress of the work of the Committee of Experts and specific matters relating to it that have been addressed by the Committee and, on the other hand, the extent to which member States have fulfilled their constitutional obligations in relation to international labour standards (Report III (Part 1A)).
 - **Part II: Observations concerning particular countries** on the fulfilment of obligations in respect of the submission of reports, on the application of ratified Conventions grouped by subject matter, and on the obligation to submit instruments to the competent authorities (Report III (Part 1A)).
 - **Part III: General Survey** is published as a separate volume (Report III (Part 1B)).
- Furthermore, an **Information document on ratifications and standards-related activities** (Report III (Part 2)) accompanies the report of the Committee of Experts.⁹

Committee on the Application of Standards of the International Labour Conference

Composition

The Conference Committee on the Application of Standards is one of the two standing committees of the Conference. It is tripartite and therefore comprises representatives of Governments, Employers and Workers. At each session, the Committee elects its Officers, which includes a Chairperson (Government member), two Vice-Chairpersons (Employer member and Worker member) and a Reporter (Government member).

Mandate

The Conference Committee on the Application of Standards meets annually at the June session of the Conference. Pursuant to article 7 of the Standing Orders of the Conference, the Committee shall consider:

- Measures taken to give effect to ratified Conventions (*article 22 of the Constitution*).
- Reports communicated in accordance with article 19 of the Constitution (*General Surveys*).
- Measures taken in accordance with article 35 of the Constitution (*non-metropolitan territories*).

The Committee is required to present a report to the Conference.

Following the independent, technical examination carried out by the Committee of Experts, the proceedings of the Conference Committee on the Application of Standards provide an opportunity for the representatives of Governments, Employers and Workers to review together the manner in which States are fulfilling their standards-related obligations, particularly with regard to ratified Conventions. Governments are able to elaborate on information previously supplied to the Committee of Experts, indicate any further measures taken or proposed since the last session of the Committee of Experts, draw attention to difficulties encountered in the fulfilment of obligations, and seek guidance as to how to overcome such difficulties.

The Conference Committee on the Application of Standards discusses the General Report and the General Survey of the Committee of Experts, and the documents submitted by governments. The work of the Conference Committee starts with a general discussion on the standards system as well as a discussion on the General Survey. The Conference Committee subsequently examines cases of serious failure to fulfil reporting and other standards-related obligations. Finally, the Conference Committee embarks upon its main task, which is to examine a number of individual cases concerning the application of ratified Conventions which have been the subject of the Committee of Experts' observations. The Conference Committee invites the Government representatives concerned to attend one of its sessions to discuss the observations in question. After listening to these Government representatives, the members of the Conference Committee may ask questions or make comments. At the end of the discussion, the Conference Committee adopts the conclusions on the case in question. Furthermore, in accordance with the resolution adopted by the Conference in 2000, the Conference Committee holds, at each of its sessions, a special sitting on the application by Myanmar of the Forced Labour Convention, 1930 (No. 29).¹⁰

In its report submitted to the plenary sitting of the Conference for adoption, the Conference Committee on the Application of Standards may invite the member State whose case has been discussed to accept a technical assistance mission by the International Labour Office to increase its capacity to fulfil its obligations, or may propose other types of missions. The Conference Committee may also request a government to submit additional information or address specific concerns in its next report to the Committee of Experts. The Conference Committee also draws the attention of the Conference to certain cases, such as cases of progress and cases of serious failure to comply with ratified Conventions.

⁹ This document provides an overview of the recent developments in international labour standards, the implementation of special procedures, and technical cooperation in relation to international labour standards. It also contains, in the form of tables, full information on the ratification of Conventions, together with "country profiles" containing key information on standards for each country.

¹⁰ International Labour Conference, 88th Session, 2000; *Provisional Records* Nos. 6-1 to 5.

Relationship between the Committee of Experts and the Conference Committee on the Application of Standards

In numerous reports, the Committee of Experts has stressed the importance of the spirit of mutual respect, cooperation and responsibility which has always existed in relations between the Committee of Experts and the Conference Committee. In recent years, it has become the practice for the Chairperson of the Committee of Experts to attend the general discussion of the Conference Committee and the discussion on the General Survey as an observer, with the opportunity to address the Conference Committee at the opening of the general discussion and the opportunity to make remarks at the end of the discussion on the General Survey. In a similar fashion, the Employer and Worker Vice-Chairpersons of the Conference Committee are invited to meet with and address the Committee of Experts during a special session for that purpose.

Part I. 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 77th Session in Geneva from 21 November to 8 December 2006. The Committee has the honour to present its report to the Governing Body.

2. The composition of the Committee is as follows: Mr Mario ACKERMAN (Argentina), Mr Anwar Ahmad Rashed AL FUZAIE (Kuwait), Mr Denys BARROW, SC (Belize), Ms Janice R. BELLACE (United States), Mr Lélío BENTES CORRÊA (Brazil), Mr Michael Halton CHEADLE (South Africa), Ms Laura COX, QC (United Kingdom), Ms Blanca Ruth ESPONDA ESPINOSA (Mexico), Mr Abdul G. KOROMA (Sierra Leone), Ms Robyn A. LAYTON, QC (Australia), Mr Pierre LYON CAEN (France), Mr Sergey Petrovitch MAVRIN (Russian Federation), Ms Angelika NUSSBERGER, MA (Germany), Ms Ruma PAL (India), Mr Miguel RODRIGUEZ PIÑERO Y BRAVO FERRER (Spain), Mr Amadou SÔ (Senegal), Mr Budislav VUKAS (Croatia), Mr Yozo YOKOTA (Japan). Appendix I of the General Report contains brief biographies of all the Committee members.

3. Mr Mavrin and Mr Vukas have served the Committee for eight and 21 years respectively. Mr Mavrin informed the Committee that he would not seek a renewal of his mandate which was due to expire at the end of the year. The mandate of Mr Vukas exceeds 15 years. The Committee would like to express its great appreciation for the outstanding manner in which both experts have carried out their duties, throughout their service on the Committee.

4. During its session, the Committee welcomed Mr Lélío Bentes Corrêa, nominated by the Governing Body during its 296th Session (June 2006), together with Mr Koroma and Ms Pal, who were nominated in November 2005 and who were participating in the Committee's work for the first time. The Committee noted that a former member of the secretariat for many years, Mr Lee Swepston, is due to retire and wishes to express its sincere appreciation for his contribution to the work of the Committee over the years.

5. The Committee was deeply saddened to learn of the death, on 3 June 2006, of Mr Edilbert Razafindralambo, former member and Reporter of the Committee. All those who had the privilege of knowing or working with Mr Razafindralambo will remember him as a brilliant, generous and profoundly humane individual who worked tirelessly throughout his life with numerous international bodies for the promotion of human rights, labour rights and the international rule of law. He will also be remembered as a talented lawyer who dedicated 40 years of his working life to the defence and promotion of ILO values. The Committee wishes to express the esteem and friendship which those of its members who knew him felt for Mr Razafindralambo, as well as its gratitude for the devotion and competence he brought to the cause of international labour standards.

6. Ms Layton, QC, continued her mandate as Chairperson, and the Committee re-elected Mr Al-Fuzaie as Reporter.

80th anniversary of the Committee of Experts

7. This year marked the 80th anniversary of the decision to create the Committee of Experts and the Conference Committee on the Application of Standards taken by the International Labour Conference in 1926. To celebrate this anniversary a colloquium was organized by the Office under the guidance of the Committee of Experts. The colloquium was entitled "Protecting Labour Rights as Human Rights: Present and Future of International Supervision". More specifically the colloquium was articulated around four discussion themes: the institutional framework for monitoring state compliance with social and economic rights; issues and dilemmas concerning the revision of working methods and the evaluation of impact; international supervision at the time of institutional reform; and future approaches to

international regulation and supervision. Two panel discussions were also organized on the effectiveness of international supervision in the field of economic and social rights and the quest for new compliance tools.

8. Guest speakers included eminent judges and academics, some serving on UN human rights treaty bodies or other organs related to human rights protection. These guest speakers were: Mr Judge Thomas Buergenthal (International Court of Justice), Ms Christine Chinkin (London School of Economics, United Kingdom), Mr Simon Deakin (University of Cambridge, United Kingdom), Mr Emmanuel Decaux (University of Paris II, France), Mr Doudou Diène (UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), Mr Adrián Goldin (University of San Andrés, Argentina), Mr Bob Hepple (University of Cambridge, United Kingdom), Mr Brian Langille (University of Toronto, Canada), Ms Jutta Limbach (Goethe Institut, Germany), Mr Giorgio Malinverni (University of Geneva, Switzerland), Ms Tonia Novitz (University of Bristol, United Kingdom), Mr Judge Fatsah Ouguerouz (African Court on Human and Peoples' Rights), Mr Eibe Riedel (Vice-Chairperson of the United Nations Committee of Economic, Social and Cultural Rights), Mr Charles Sabel (Columbia Law School, United States), Mr Linos-Alexandre Sicilianos (University of Athens, Greece), Mr Rodolfo Stavenhagen (UN Special Rapporteur on the human rights and fundamental freedom of indigenous peoples), Ms Brigitte Stern (University of Paris I, France) and Mr Andrzej Marian Swiatkowski (University of Krakow, Poland).

9. The two-day event ended with an official dinner, kindly offered by the *Friedrich-Ebert-Stiftung*, in which Ms Ruth Dreifuss, former Federal Councillor and former President of the Swiss Confederation, delivered the keynote speech. An exhibition entitled "A peerless heritage, 1926–2006" was also organized putting on display photos, documents and other archive material relating to the establishment, functioning and membership of the Committee. The International Labour Standards Department will publish the proceedings of the colloquium in a commemorative volume to appear in the first quarter of 2007.

10. The colloquium offered an opportunity for a rich exchange on the challenges currently facing most international supervisory organs in the field of human rights. There were discussions on report-based systems and complaints-based systems. The discussions focused on the differences inherent in these two systems and the importance of striking an appropriate balance between them to ensure the greatest impact on the ground and so that they maintain an important and relevant influence on actual compliance with international norms. The problems of rationalizing working methods, increasing capacity and enhancing visibility and impact were a serious concern shared by all. Particular concern was raised about recent attempts to limit the independence of various bodies and mechanisms within the UN system. Ongoing reforms, or reform proposals, both within and outside the UN system, focused on ways to achieve improved quality and timely reporting, better coordination among expert bodies, more efficient use of limited resources, increased access to individuals and more systematic offer of collaborative action as a compliance-inducing technique. An interactive discussion revolved around self-regulation and voluntary compliance schemes and the impact they had on binding norms. As regards future ILO standard-setting activities, some suggested that greater use could be made of framework instruments. Overall, the participants hailed the ILO system of regular supervision, based on the complementary action of the Committee of Experts and the Conference Committee, as an enduring model.

Relations with the Conference Committee on the Application of Standards

11. A 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. The Committee of Experts takes the proceedings of the Conference Committee on the Application of Standards into full 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 standards-related obligations. In this context, the Committee again welcomed the participation of its Chairperson as an observer in the general discussion of the Committee on the Application of Standards of the 95th Session of the International Labour Conference (May–June 2006). It noted the request by the abovementioned Committee for the Director-General to renew this invitation for the 96th Session of the Conference (May–June 2007). The Committee of Experts has accepted this invitation.

12. The Chairperson of the Committee of Experts once again invited the Employer and Worker Vice-Chairpersons of the Committee on the Application of Standards of the 95th Session of the International Labour Conference (Mr Edward Potter and Mr Luc Cortebeek respectively) to participate in a special sitting of the Committee at its present session. Both accepted this invitation and discussed matters of mutual interest with the Committee. The new interactive format for this sitting used for the first time this year was welcomed by all. The Committee of Experts had thus an in-depth discussion with the two Vice-Chairpersons on the following three items: (1) the draft Readers' note to be inserted at the beginning of the Committee of Experts' report; (2) the number of special notes at the end of the comments, on the basis of which the Committee of Experts requests the governments to provide comprehensive information to the Conference; and (3) the insertion in the General Report of a section on highlights and major trends in the application of international labour standards. The two Vice-Chairpersons provided remarks on the draft Readers' note, which have been taken into account by the Committee of Experts when adopting the final text. While bearing in mind the concerns raised in respect of the number of special notes (double footnotes) used in the Committee of Experts' report last year, its members emphasized their role as an independent, apolitical body and considered that their task was to strictly apply the criteria, which they had

set out at their 76th Session. As for the appropriateness of a section on highlights and major trends, many members considered that the Committee was well placed to draw attention to such matters and the discussion revolved around the various ways in which this information could be presented in its report. The three items discussed during the special sitting were again taken up by the Committee of Experts during a plenary sitting. The members of the Committee of Experts and the two Vice-Chairpersons also exchanged views on the subject of including a country-based approach for the purpose of supervising the application of ratified Conventions, including the advantages and disadvantages of such an approach. They agreed that such an approach deserves a more in-depth discussion taking into account the constitutional obligation deriving from article 22 and the capacity of the International Labour Standards Department to carry out such a task. For the next session of the Committee, an invitation will once again be made to the Employer and Worker Vice-Chairpersons of the Committee on the Application of Standards of the 96th Session of the Conference.

Working methods

13. As was the case last year and in view of the time that had to be devoted to the celebration of its 80th anniversary, issues relating to its working methods were taken forward by the Committee in plenary sessions instead of in the Subcommittee on Working Methods. In addition to the discussion it had during the special sitting with the two Vice-Chairpersons of the Committee on the Application of Standards, the Committee had a discussion on the issue concerning observations made by employers' and workers' organizations with a view to giving guidance to the secretariat for the preparation of its work next year. the Subcommittee on Working Methods will continue to review the working methods and any pending matters during the next session of the Committee.

II. Compliance with obligations

14. The Committee recalls that, at the instigation of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference, the two committees, with the assistance of the Office, strengthened the follow-up given to cases of serious failure by member States to fulfil reporting and other standards-related obligations, so as to enable appropriate solutions to be identified, insofar as is possible, for each case. As both committees have recalled on numerous occasions, such failures to report hinder the functioning of the supervisory system, since this system is based primarily on the information provided by governments. Therefore, in cases where a report has not been submitted for a number of years, which are the most serious cases, the supervision of the application of ratified Conventions often cannot begin, is suspended or does not have the benefit of the government's views and explanations.

15. The Committee notes that it appears from various sources of information (discussions of the Committee on the Application of Standards, governments' replies to the Office's letters, and information from subregional offices), that, in the majority of cases, the reasons for such failures to report are institutional, in particular the lack of resources (both material and human) of the national authorities responsible for sending reports, and staff who are insufficiently trained or who need to be regularly updated in respect of supervisory procedures. The Committee, like the Conference Committee on the Application of Standards, wishes to emphasize the vital role played in this regard by specialists in standards-related issues from subregional offices. The Committee notes that member States which fail to fulfil their obligations often belong to a subregion covered by an ILO office that does not have, or no longer has, at its disposal the services of such a specialist.

16. This year, in the light of the Committee's discussions, the Office has sent specific follow-up letters to 49 member States (53 in 2005). These cases were mentioned in the relevant paragraphs of the report of the Conference Committee on the Application of Standards. The letters drew the attention of the governments concerned to specific failures and requested them, where appropriate, to identify in practical terms the difficulties they faced in fulfilling their obligations, so that the Office could at least provide them with useful suggestions on how to remedy such difficulties. The Committee notes that out of the 49 member States concerned, 33, therefore over half, had already been mentioned for at least the same failures in the 2005 report of the Conference Committee on the Application of Standards. The Committee notes that the subregional offices were requested to contact these 33 member States on a priority basis, and to provide them with technical assistance. The Committee notes that, in response to this request, certain specialists in standards-related issues have, with the support of national correspondents where possible, actively given their assistance to the governments concerned.

17. The Committee notes that eight member States (three in 2005) have sent replies to the Office's letter: **Armenia, Burundi, Comoros, Djibouti, Iraq, The former Yugoslav Republic of Macedonia, Turkmenistan and Zambia**. With the exception of Burundi, which has sent the first report due, all these member States have requested the Office's technical assistance. This technical assistance has already been provided in the case of Armenia and will soon be provided in the cases of Comoros and Zambia. The Committee is grateful to these governments for their replies to the Office's letter. Moreover, the Committee has been informed that in the light of the discussions of the Conference Committee on the Application of Standards, other member States have fulfilled, partly or in full, their reporting and other standards-related obligations.¹ Finally, the Committee welcomes the special efforts made this year by certain member States to submit all the reports due, or a large part of these reports, after several years of interruption.²

¹ **Albania** (submission of first report on Convention No. 150 due since 2004), **Antigua and Barbuda** (submission of some of the reports due for the past three years), **Armenia** (submission of first report on Convention No. 122 due since 1996), **Bahamas** (submission of first report on Convention No. 147 due since 2003), **Burundi** (submission of first report on Convention No. 182 due since 2004), **Comoros** (submission of some of the reports due for the past two years), **Paraguay** (submission of first report on

18. The Committee reminds the governments that they are required to comply with all the reporting and other standards-related obligations that they accepted upon becoming Members of the ILO. The governments that request technical assistance may indeed benefit from it, yet such assistance is only useful if it focuses on the specific difficulties faced. In order for such assistance to be appropriate and effective, governments must be prepared to inform the Office of the specific obstacles they are encountering to the fulfilment of their reporting obligations.³

Reports on ratified Conventions (articles 22 and 35 of the Constitution)

A. Supply of reports

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

20. In accordance with the changes in the reporting system adopted by the Governing Body in November 2001 and March 2002,⁴ particularly with a view to facilitating the collection of information on related subjects at the national level, requests for reports on Conventions covering the same subject are grouped together and addressed simultaneously to each country.⁵ In addition, in the case of the 12 fundamental and priority Conventions, as well as for certain other groups of Conventions containing a large number of instruments, reports are requested, with a view to balancing their submission, in accordance with the English alphabetical order, the first year by member States beginning with the letters A to J, and the second year by those whose names begin with the letters K to Z, or the converse⁶ (for a list of subject matters see page v).

21. The Committee also had before it reports especially requested from certain governments on other Conventions for one of the following reasons:

- (a) a first detailed report was due after ratification;
- (b) important discrepancies had previously been noted between national law or practice and the Conventions in question;
- (c) reports due for the previous period had not been received or did not contain the information requested;
- (d) reports were expressly requested by the Conference Committee on the Application of Standards.

The Committee also had before it a number of reports which it was unable to examine at its previous session.

Reports requested and received

22. A total of 2,586 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, 1,719 of these reports had been received by the Office. This figure corresponds to 66.47 per cent of the reports requested, compared with 69 per cent last year.

23. In addition, 353 reports were requested on Conventions declared applicable with or without modifications to non-metropolitan territories (article 35 of the Constitution). Of these, 239 reports, or 67.71 per cent, had been received by the end of the Committee's session, in comparison with 72.01 per cent last year.

24. The Committee notes with regret that in spite of the special efforts made by the Office, the total number of reports received this year is lower than the total number received last year. Appendix I of this report lists the reports received and not received, classified by country/territory and by Convention. Appendix II shows, for each year in which the Conference has met since 1932, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee of Experts and by the date of the session of the International Labour Conference.

Convention No. 182 due since 2003), **Serbia** (submission of first reports on Conventions Nos. 24 and 25 due since 2003), **Uganda** (submission of first report on Convention No. 182 due since 2003). The following countries have since replied to all or the majority of the Committee's comments: **Afghanistan, Antigua and Barbuda, Barbados, Bosnia and Herzegovina, Burundi, Chile, Côte d'Ivoire, Democratic Republic of the Congo, France** (French Guiana, Guadeloupe), **Gambia, Guyana, Lao People's Democratic Republic, Namibia, Netherlands** (Aruba), **Paraguay, Senegal, Seychelles, Singapore, United Republic of Tanzania** (Tanganyika), **Thailand, United States, Viet Nam, Zambia**.

² **Afghanistan, Grenada, Guyana, Lao People's Democratic Republic, Netherlands** (Aruba), **Paraguay**.

³ Part II of the present report refers to certain cases of failure to fulfil reporting and other standards-related obligations, within the framework of general observations (pp. 33 to 38) and observations on the submission to the competent authorities of instruments adopted by the Conference (pp. 559 to 571).

⁴ Documents GB.282/LILS/5, GB.282/8/2, GB.283/LILS/6 and GB.283/10/2.

⁵ Information concerning requests for reports by country and by Convention is available on the ILO web site: <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm>.

⁶ Information concerning the regular reporting schedule by country and by Convention is available on the ILO web site: <http://webfusion.ilo.org/public/db/standards/normes/schedules/index.cfm>.

25. In some cases, reports are not accompanied by copies of the relevant legislation, statistical data or other documentation necessary for their full examination. In cases where this material was not otherwise available, the Office, as requested by the Committee, has written to the governments concerned asking them to supply the necessary texts to enable the Committee to fulfil its task.

Compliance with reporting obligations

26. Most of the governments from which reports were due on the application of ratified Conventions have supplied most or all of the reports requested (see Appendix I). However, no reports due have been received for the past two or more years from the following 14 countries: **Cambodia, Congo, Denmark** – Faeroe Islands, **Iraq, Liberia, Saint Kitts and Nevis, Saint Lucia, San Marino, Sao Tome and Principe, The former Yugoslav Republic of Macedonia, Togo, Turkmenistan, United Kingdom** – Montserrat, **United Kingdom** – St. Helena, **Uzbekistan**. In addition, all or the majority of the reports due this year have not been received from the following 40 countries: **Albania, Antigua and Barbuda, Armenia, Belize, Bolivia, Bosnia and Herzegovina, Botswana, Cape Verde, Comoros, Cyprus, Democratic Republic of the Congo, Denmark** – Greenland, **Djibouti, Dominica, Equatorial Guinea, Eritrea, Estonia, France** – French Guiana, **France** – French Southern and Antarctic Territories, **France** – Martinique, **Gambia, Haiti, Indonesia, Islamic Republic of Iran, Jordan, Kiribati, Republic of Korea, Kyrgyzstan, Malawi, Mongolia, Papua New Guinea, Russian Federation, Serbia, Sierra Leone, Solomon Islands, Somalia, Swaziland, Tajikistan, Thailand, Trinidad and Tobago, Uganda, United Kingdom** – Anguilla.

27. The Committee urges the governments of these countries to make every effort to supply the reports requested on ratified Conventions. The Committee is aware that where no reports have been sent for some time, it is likely that administrative or other problems are preventing the government concerned from fulfilling its obligations under the ILO Constitution, and it recalls that in cases of this kind, assistance from the Office, in particular through the specialists on international labour standards in the regional and subregional offices, can help the government to overcome such difficulties.

Late reports

28. The Committee is still concerned at the number of reports being received after the prescribed time period, especially given the large number of reports received each year. The reports due on ratified Conventions should be sent to the Office between 1 June and 1 September of each year. Due consideration is given, when setting this date, to the time required to translate the reports, where necessary, to conduct research into legislation and other documents necessary for the examination of reports and legislation.

29. The supervisory procedure can function adequately 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.

30. The Committee observes that the great majority of reports are received between the time limit fixed and the date on which the Committee meets: by 1 September 2006, the proportion of reports received was only 28.81 per cent. Even though this percentage is slightly higher than at its previous session (26.38 per cent), the Committee is still concerned about it, since it notes that it is often 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 due to the lack of time. This obviously places a great strain on the supervisory process and effectively makes it impossible for some cases to be dealt with adequately or at all. These problems may well continue to increase with the success of the ratification campaign on fundamental Conventions and an increase in the number of ratifications of other Conventions.

31. Furthermore, the Committee notes that a number of countries sent some or all of the reports due by 1 September 2005 on ratified Conventions during the period between the end of the Committee's December 2005 session and the beginning of the June 2006 session of the International Labour Conference, or even during the Conference.⁷ The Committee emphasizes that this practice disturbs the regular operation of the supervisory system and makes it more burdensome. It wishes to provide the following list of those countries which followed this practice in 2005–06, as requested by the Conference Committee on the Application of Standards: **Afghanistan** (Conventions Nos. 13, 14, 41, 45, 95, 100, 105, 106, 111, 137, 139, 140, 141, 142); **Bahamas** (Conventions Nos. 22, 100, 111, 144, 147, 182); **Barbados** (Conventions Nos. 22, 74, 87, 98, 100, 108, 111, 115, 122, 144); **Bosnia and Herzegovina** (Convention No. 81); **Botswana** (Conventions Nos. 87, 98, 100, 138, 144); **Burkina Faso** (Conventions Nos. 13, 87, 98, 100, 111, 144, 159, 161); **Burundi** (Conventions Nos. 62, 81, 89, 94, 98, 100, 111, 135, 144, 182); **Chad** (Conventions Nos. 13, 98, 100, 111, 144); **Chile** (Conventions Nos. 2, 13, 87, 98, 100, 111, 121, 122, 127, 136, 144, 159, 161, 162); **Comoros** (Conventions Nos. 13, 98); **Côte d'Ivoire** (Conventions Nos. 13, 45, 81, 87, 96, 98, 100, 111, 129, 136, 144); **Democratic Republic of the Congo** (Conventions Nos. 14, 29, 81, 87, 88, 98, 100, 102, 111, 150); **Denmark** (Conventions Nos. 142, 155); **France**

⁷ For the reports received and not received by the end of the Conference, see report of the Committee on the Application of Standards, Part Two, II, Appendix I (*Provisional Record* No. 24, 95th Session, ILC, 2006). See also information on article 22 reports requested and received on the ILO web site: <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm>.

(Conventions Nos. 88, 96, 148); **France** – Guadeloupe (Conventions Nos. 13, 45, 62, 87, 98, 100, 111, 115, 120, 136, 144); **Ghana** (Conventions Nos. 87, 92, 100, 105, 111, 120, 148); **Grenada** (Conventions Nos. 8, 14, 16, 29, 81, 87, 98, 100, 105, 108, 111, 138, 144, 182); **Guinea** (Conventions Nos. 62, 120, 133, 138, 139, 140, 150, 182); **Guyana** (Conventions Nos. 29, 45, 81, 87, 98, 100, 105, 108, 111, 115, 129, 135, 136, 138, 139, 144, 150, 151, 166, 182); **Kazakhstan** (Conventions Nos. 29, 81, 87, 88, 98, 105, 111, 122, 129, 135, 138, 144, 148, 155, 182); **Republic of Korea** (Conventions Nos. 81, 150, 182); **Lao People's Democratic Republic** (Conventions Nos. 13, 29); **Luxembourg** (Conventions Nos. 55, 56, 81); **Madagascar** (Conventions Nos. 13, 29, 81, 138); **Malta** (Conventions Nos. 8, 16, 22, 29, 53, 73, 74, 81, 105, 108, 129, 138, 180, 182); **Netherlands** – Aruba (Conventions Nos. 8, 9, 22, 23, 29, 69, 74, 81, 87, 88, 105, 122, 135, 138, 144, 145, 146, 147); **Netherlands** – Netherlands Antilles (Conventions Nos. 8, 9, 22, 23, 29, 58, 69, 74, 81, 105); **Pakistan** (Conventions Nos. 16, 22); **Panama** (Conventions Nos. 138, 182); **Paraguay** (Conventions Nos. 1, 29, 30, 52, 79, 81, 87, 89, 90, 98, 100, 111, 119, 120, 122, 159, 182); **Seychelles** (Convention No. 8); **Slovenia** (Convention No. 147); **Swaziland** (Conventions Nos. 29, 138); **United Republic of Tanzania** (Conventions Nos. 16, 138); **United Republic of Tanzania** – Tanganyika (Conventions Nos. 81, 108); **Thailand** (Conventions Nos. 29, 105, 182); **Trinidad and Tobago** (Conventions Nos. 16, 29, 105, 147, 182); **Uganda** (Conventions Nos. 17, 26, 81, 105, 123, 143, 159, 182); **Ukraine** (Conventions Nos. 23, 69, 108, 133, 147); **United Kingdom** – Bermuda (Convention No. 98); **United Kingdom** – British Virgin Islands (Convention No. 8); **United Kingdom** – Falkland Islands (Malvinas) (Conventions Nos. 8, 22, 23, 29, 58, 105, 108); **United States** (Conventions Nos. 53, 55, 105, 160, 182); **United States** – American Samoa (Conventions Nos. 53, 55); **United States** – Guam (Conventions Nos. 53, 55); **United States** – Puerto Rico (Conventions Nos. 53, 55); **United States** – United States Virgin Islands (Conventions Nos. 53, 55); **Viet Nam** (Conventions Nos. 81, 182); **Zambia** (Conventions Nos. 95, 103, 105, 117, 122, 138, 141, 173).

Supply of first reports

32. A total of 60 of the 179 first reports due on the application of ratified Conventions were received by the time that the Committee's session ended, compared to last year when 105 of the 200 first reports due had been received. However, a number of countries have failed to supply first reports, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received for a certain number of years from the following 17 member States:

- since 1992: **Liberia** (Convention No. 133);
- since 1995: **Armenia** (Convention No. 111), **Kyrgyzstan** (Convention No. 133);
- since 1996: **Armenia** (Conventions Nos. 100, 135, 151);
- since 1998: **Armenia** (Convention No. 174), **Equatorial Guinea** (Conventions Nos. 68, 92);
- since 1999: **Turkmenistan** (Conventions Nos. 29, 87, 98, 100, 105, 111);
- since 2001: **Armenia** (Convention No. 176), **Kyrgyzstan** (Convention No. 105);
- since 2002: **Bosnia and Herzegovina** (Convention No. 105), **Gambia** (Conventions Nos. 29, 105, 138), **Saint Kitts and Nevis** (Conventions Nos. 87, 98, 100), **Saint Lucia** (Conventions Nos. 154, 158, 182);
- since 2003: **Bosnia and Herzegovina** (Convention No. 182), **Dominica** (Convention No. 182), **Gambia** (Convention No. 182), **Iraq** (Conventions Nos. 172, 182), **Serbia** (Conventions Nos. 27, 113, 114);
- since 2004: **Antigua and Barbuda** (Conventions Nos. 122, 131, 135, 142, 144, 150, 151, 154, 155, 158, 161, 182); **Dominica** (Conventions Nos. 144, 169); **The former Yugoslav Republic of Macedonia** (Convention No. 182); and
- since 2005: **Albania** (Conventions Nos. 174, 175, 176), **Antigua and Barbuda** (Convention No. 100), **Armenia** (Conventions Nos. 17, 98), **Côte d'Ivoire** (Convention No. 138), **Kyrgyzstan** (Conventions Nos. 150, 154), **Liberia** (Conventions Nos. 81, 144, 150, 182), **Serbia** (Conventions Nos. 8, 16, 22, 23, 53, 56, 69, 73, 74), **The former Yugoslav Republic of Macedonia** (Convention No. 105), **Uganda** (Convention No. 138).

33. The Committee, like the Conference Committee on the Application of Standards, wishes to emphasize the importance of first reports. They provide the basis on which the Committee makes its initial assessment of the observance of ratified Conventions. The Committee urges the governments concerned to make a special effort to supply these reports.

Replies to the comments of the supervisory bodies

34. Governments are requested to reply in their reports to the observations and direct requests made by the Committee, and the majority of governments have provided the replies requested. In accordance with the established practice, the Office has written to all the governments which failed to provide such replies, requesting them to supply the necessary information. Of the 44 governments to which such letters were sent, only 13 have provided the information requested.

35. The Committee regrets that there are still many cases of failure to reply to its comments, either:

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

36. In all there were 415 cases of no response (concerning 47 countries).⁸ There were 385 such cases (concerning 46 countries) last year. Under these conditions, the Committee is bound to repeat the observations or direct requests already made on the Conventions in question.

37. 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 on the Application of Standards. The Committee cannot overemphasize the importance of ensuring the dispatch of the reports and replies to its comments.

B. Examination of reports

38. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, in accordance with its normal practice, the Committee assigned 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 the Committee in plenary sitting for discussion and approval. Decisions on comments are adopted by consensus.

Observations and direct requests

39. In many cases, the Committee has found that no comment is called for regarding the manner 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 "direct requests", which are not published in the Committee's report, but are communicated directly to the governments concerned.⁹

40. As in the past, the Committee has indicated by special notes at the end of the observations (traditionally known as footnotes) the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has seemed appropriate to ask the government to supply a report earlier than would otherwise have been the case.¹⁰ Under the present reporting cycle,¹¹ which applies to most Conventions, such early reports have been requested

⁸ **Albania** (Conventions Nos. 29, 100, 105, 111, 138, 178, 181, 182); **Bahamas** (Conventions Nos. 26, 29, 81, 100, 105, 111, 138, 182); **Belize** (Conventions Nos. 26, 87, 88, 94, 95, 98, 99, 100, 111, 115, 138, 141, 144, 150, 151, 154, 156, 182); **Bolivia** (Conventions Nos. 1, 30, 77, 78, 81, 95, 105, 123, 124, 129, 131, 138, 156); **Botswana** (Conventions Nos. 29, 95, 105, 173, 176, 182); **Burkina Faso** (Conventions Nos. 29, 105, 111, 129, 131, 138, 141, 159, 161, 170, 173, 182); **Cambodia** (Conventions Nos. 4, 6, 13, 87, 98, 100, 105, 111, 122, 138); **Comoros** (Conventions Nos. 26, 29, 52, 77, 78, 81, 99, 100, 105, 122); **Congo** (Conventions Nos. 6, 26, 29, 81, 87, 95, 98, 100, 105, 111, 138, 144, 149, 152, 182); **Cyprus** (Conventions Nos. 105, 114, 122, 138, 182); **Djibouti** (Conventions Nos. 26, 81, 94, 95, 98, 99, 115, 120, 125); **Dominica** (Conventions Nos. 16, 26, 29, 81, 87, 95, 100, 105, 138); **Equatorial Guinea** (Conventions Nos. 29, 100, 105, 111, 138); **Eritrea** (Conventions Nos. 29, 100, 105, 111, 138); **Estonia** (Conventions Nos. 5, 6, 11, 29, 105, 182); **France – Martinique** (Conventions Nos. 81, 94, 95, 112, 113, 125, 129, 131); **Grenada** (Conventions Nos. 26, 87, 94, 95, 99, 100, 144); **Guinea** (Conventions Nos. 29, 90, 95, 99, 105, 113, 115, 118, 120, 121, 122, 134, 136, 148, 150, 156); **Haiti** (Conventions Nos. 5, 45, 77, 78, 81); **Indonesia** (Conventions Nos. 138, 182); **Islamic Republic of Iran** (Conventions Nos. 29, 95, 100, 122, 182); **Iraq** (Conventions Nos. 13, 22, 23, 94, 95, 98, 108, 115, 120, 136, 147, 167); **Jordan** (Conventions Nos. 29, 81, 105, 138, 182); **Kazakhstan** (Conventions Nos. 81, 87, 98, 100, 105, 111, 129, 135, 148); **Kiribati** (Conventions Nos. 87, 98); **Republic of Korea** (Conventions Nos. 19, 100, 111, 122, 144, 156); **Kyrgyzstan** (Conventions Nos. 14, 29, 52, 77, 78, 79, 87, 100, 122, 124, 148, 149, 160); **Liberia** (Conventions Nos. 22, 29, 53, 55, 58, 87, 92, 98, 105, 111, 112, 113, 114, 133, 147); **Malawi** (Conventions Nos. 19, 87, 98, 100, 111, 144, 158); **Malta** (Conventions Nos. 22, 53, 81, 87, 98, 100, 111, 180); **Papua New Guinea** (Conventions Nos. 87, 98, 100, 111, 122, 158); **Russian Federation** (Conventions Nos. 29, 81, 87, 95, 98, 100, 111, 113, 122, 126, 156); **Saint Kitts and Nevis** (Conventions Nos. 29, 105, 111, 144, 182); **Saint Lucia** (Conventions Nos. 7, 8, 14, 17, 19, 87, 100, 111); **San Marino** (Conventions Nos. 29, 88, 100, 142, 148, 156, 160, 182); **Sao Tome and Principe** (Conventions Nos. 17, 18, 19, 81, 87, 88, 98, 100, 111, 144, 159); **Sierra Leone** (Conventions Nos. 17, 87, 95, 98, 100, 105, 111, 125, 126, 144); **South Africa** (Conventions Nos. 100, 111); **Swaziland** (Conventions Nos. 11, 87, 98, 100, 111, 138, 144, 160); **Tajikistan** (Conventions Nos. 11, 87, 98, 100, 126); **United Republic of Tanzania** (Conventions Nos. 12, 17, 94, 98, 100, 111); **The former Yugoslav Republic of Macedonia** (Conventions Nos. 87, 98); **Togo** (Conventions Nos. 29, 87, 100, 105, 111, 138, 144, 182); **Trinidad and Tobago** (Conventions Nos. 19, 87, 98, 100, 111, 125, 144, 147); **Uganda** (Conventions Nos. 11, 17, 29, 94, 98, 122, 144, 158, 162); **United Kingdom – Anguilla** (Conventions Nos. 8, 17, 22, 23, 29); **United Kingdom – Montserrat** (Conventions Nos. 8, 14, 26, 29, 95, 98); **United Kingdom – St. Helena** (Conventions Nos. 17, 29, 108); **Uzbekistan** (Conventions Nos. 29, 98, 100, 105, 111, 122).

⁹ ILO: *Handbook of procedures relating to international labour Conventions and Recommendations*, Geneva, Rev., 2006. These comments appear in the CD-ROM version of the ILOLEX database. This database is also available via the ILO web site (www.ilo.org/normes).

¹⁰ Convention No. 8: **Seychelles**; Convention No. 13: **Senegal**; Convention No. 17: **Kenya, Mauritius, United Kingdom**; Bermuda; Convention No. 19: **Malaysia**: Peninsular Malaysia, Sarawak, **Mauritius**; Convention No. 22: **Mexico**; Convention No. 26: **Djibouti, Guinea**; Convention No. 32: **Algeria**; Convention No. 55: **Peru**; Convention No. 56: **Peru**; Convention No. 68: **Spain**; Convention No. 71: **Peru**; Convention No. 87: **Myanmar**; Convention No. 88: **Djibouti, France, Thailand**; Convention No. 94: **Burundi, Guinea**; Convention No. 95: **Central African Republic, Russian Federation, Zambia**; Convention No. 96: **Bolivia, Djibouti, France, Ghana, Pakistan**; Convention No. 100: **Japan**; Convention No. 102: **Democratic Republic of the Congo, Mexico, Peru**; Convention No. 111: **Bangladesh, India**; Convention No. 115: **Brazil, Ghana, France**: French Polynesia, Guadeloupe; Convention No. 117: **Paraguay, Zambia**; Convention No. 118: **Suriname**; Convention No. 119: **Azerbaijan, Democratic Republic of the Congo, Ukraine**; Convention No. 120: **Senegal**; Convention No. 121: **Senegal**; Convention No. 122: **Thailand**; Convention No. 127: **France**: New Caledonia, **Tunisia**; Convention No. 136: **Bolivia, Italy**; Convention No. 139: **Italy**; Convention No. 144: **United**

after an interval of either one or two years, according to the circumstances. In some instances, the Committee has also requested the government to supply full particulars to the Conference at its next session in May–June 2007.¹² In addition, in certain cases, the Committee has requested governments to furnish detailed reports when simplified reports would otherwise be due.

41. In order to identify cases for which it inserts special notes, the Committee uses the basic criteria described below, while taking into account the following three general considerations. First, these criteria are indicative. In exercising its discretion in the application of these criteria, the Committee may also have regard to the specific circumstances of the country and the length of the reporting cycle. Second, these criteria are applicable to cases in which an earlier report is requested, often referred to as a “single footnote”, as well as to cases in which the government is requested to provide detailed information to the Conference, often referred to as a “double footnote”. The difference between these two categories is one of degree. Finally, a serious case otherwise justifying a special note to provide full particulars to the Conference (double footnote) might only be given a special note to provide an early report (single footnote) when there has been a recent discussion of that case in the Conference Committee on the Application of Standards.

42. The criteria to which the Committee will have regard are the following:

- the seriousness of the problem; in this respect, the Committee emphasizes that an important consideration is the necessity to view the problem in the context of a particular Convention and to take into account matters involving fundamental rights, workers’ health, safety and well-being as well as any adverse impact, including at the international level, on workers and other categories of protected persons;
- the persistence of the problem;
- the urgency of the situation; the evaluation of such urgency is necessarily case-specific, according to standard human rights criteria, such as life-threatening situations or problems where irreversible harm is foreseeable; and
- the quality and scope of the government’s response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

43. At its 76th Session (November–December 2005), the Committee decided that the identification of cases in respect of which a government is requested to provide detailed information to the Conference would be a two-stage process: first, the expert initially responsible for a particular group of Conventions recommends to the Committee the insertion of special notes; in light of all the recommendations made, the Committee will then take a final, collegial decision once it has reviewed the application of all the Conventions.

44. The observations of the Committee appear in Part II (sections I and II) of this report, together with a list under each Convention of any direct requests. An index of all observations and direct requests, classified by country, is provided in Appendix VII.

Practical application

45. It is customary for the Committee to note the information contained in the governments’ reports allowing it to appreciate the application of the Conventions in practice, such as information relating to judicial decisions, statistics and labour inspection. The supply of this information is requested in almost all report forms, as well as the specific terms of some Conventions.

46. The Committee notes that 469 reports received this year contain information on the practical application of Conventions. Of these, 64 reports contain information on national jurisprudence. Such information has been communicated mostly concerning fundamental Conventions. The Committee also notes that 405 of the reports contain information on statistics and labour inspection. The majority of this information relates to Conventions concerning the elimination of child labour (Nos. 138 and 182), equality and opportunity of treatment (Nos. 100 and 111), labour inspection (No. 81) and employment policy (No. 122).

47. The Committee must stress to governments the importance of submitting such information, since it is indispensable for completing the examination of national legislation and for helping the Committee to identify the issues arising from real problems of application in practice. The Committee also wishes to encourage employers’ and workers’ organizations to submit clear and up to date information on the application of the Conventions in practice.

Cases of progress

48. Following its examination of the reports supplied by governments, and in accordance with its standard practice, the Committee refers in its comments to cases in which it expresses its **satisfaction** or **interest** at the progress achieved in

States; Convention No. 148: **Ecuador**; Convention No. 158: **Cameroon, Gabon**; Convention No. 168: **Norway**; Convention No. 179: **Morocco**; Convention No. 180: **Sweden**; Convention No. 181: **Ethiopia**.

¹¹ After the first report, subsequent reports are requested every two years for the fundamental and priority Conventions and every five years for other Conventions (GB.258/6/19).

¹² Convention No. 87: **Belarus**; Convention No. 100: **Japan**; Convention No. 111: **Bangladesh, India**; Convention No. 119: **Democratic Republic of the Congo**.

the application of the respective Conventions. Over the years, the Committee has developed a general approach, described below, concerning the identification of cases of progress. First, the Committee emphasizes that an expression of progress can refer to different kinds of measures. In the final instance, the Committee will exercise its discretion in noting progress having regard in particular to the nature of the Convention as well as to the specific circumstances of the country.

49. Since first identifying cases of satisfaction in its report in 1964,¹³ the Committee has continued to follow the same general criteria. The Committee expresses **satisfaction** in cases in which, following comments it has made on a specific issue, governments have taken measures through, either the adoption of an amendment to the legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions. The reason for identifying cases of satisfaction is twofold: to place on record the Committee's appreciation of the positive action taken by governments in response to its comments, and to provide an example to other governments and social partners which have to address similar issues. In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. In so doing, the Committee must emphasize that an expression of satisfaction is limited to the particular issue at hand and the nature of the measure taken by the government concerned. Therefore, in the same comment, the Committee may express satisfaction on a particular issue, while raising other important issues which in its view have not been addressed in a satisfactory manner. Further, if the satisfaction relates to the adoption of legislation, the Committee may also consider appropriate follow-up on its practical application.

50. As regards the visibility and impact that cases of progress may have within the Organization, the Committee welcomed the discussion at the Conference Committee on the Application of Standards in June 2006 of the application of Convention No. 159 on vocational rehabilitation and employment (disabled persons) in Ireland, which permitted ILO member States to learn from an instructive case of good practice.

51. Details concerning these cases are to be found in Part II of this report and cover 71 instances in which measures of this kind have been taken in 48 countries. The full list is as follows:

List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the governments of the following countries:	
State	Conventions Nos.
Argentina	96
Austria	81
Barbados	144
Belgium	105
Burkina Faso	6, 95
Burundi	111
Cameroon	182
Chad	29
Chile	127
China – Hong Kong Special Administrative Region	182
Colombia	169
Cyprus	162
Czech Republic	182
Denmark	129
Ecuador	77, 78, 81
Egypt	148
France	81
France – French Polynesia	129
Germany	167

¹³ See para. 16 of the report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference.

List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the governments of the following countries:	
Guatemala	11, 182
Jordan	120
Republic of Korea	81, 150
Kuwait	81
Latvia	87
Madagascar	129, 138
Malta	127, 136
Mauritania	29
Mauritius	42
Republic of Moldova	87
Netherlands	98
New Zealand	81, 160
Nigeria	87, 98
Norway	168
Panama	160
Paraguay	79, 90, 111, 115
Peru	81, 98
Portugal	102, 129
Qatar	182
Russian Federation	160
Saudi Arabia	111
Singapore	81
Spain	115
Sri Lanka	182
Sweden	121, 160
Switzerland	102, 128, 160
The former Yugoslav Republic of Macedonia	98
Ukraine	160
United Kingdom	42, 81
United Kingdom – Bermuda	147
United States	182
Uruguay	81, 129, 150

52. Thus the total number of cases in which the Committee has been led to **express its satisfaction** at the progress achieved following its comments has risen to 2,555 since the Committee began listing them in its report.

53. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.¹⁴ In general, cases of **interest** cover measures that are sufficiently advanced to justify the expectation that further

¹⁴ See para. 122 of the report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference.

progress would be achieved in the future and regarding which the Committee would want to continue its dialogue with the government and the social partners. This may include: draft legislation before parliament, or other proposed legislative changes not yet forwarded or available to the Committee; consultations within the government and with the social partners; new policies; the development and implementation of activities within the framework of a technical cooperation project or following technical assistance or advice from the Office. Judicial decisions, according to the level of the court, the subject matter and the force of such decisions in a particular legal system would normally be considered as cases of interest unless there was a compelling reason to note a particular judicial decision as a case of satisfaction. The Committee may also note as cases of interest progress made by a State, province or territory in the framework of a federal system. The Committee's practice has developed to such an extent that cases in which it expresses interest may now also encompass a variety of new or innovative measures which have not necessarily been requested by the Committee. The paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention.

54. Details concerning the cases in question are to be found either in Part II of this report or in the requests addressed directly to the governments concerned and, include 325 instances in which measures of this kind have been adopted in 113 countries. The full list is as follows:

List of the cases in which the Committee has been able to note with interest various measures taken by the governments of the following countries:	
State	Conventions Nos.
Afghanistan	141
Algeria	62, 77, 142
Angola	81
Argentina	26, 111, 169, 182
Australia	111, 123
Austria	182
Azerbaijan	160
Bangladesh	81
Belarus	77, 87, 182
Belgium	94, 182
Belize	81
Bolivia	81, 100, 111, 159, 182
Brazil	88, 100, 111, 174
Burundi	111
Cameroon	182
Canada	111, 182
Chile	111, 136, 138, 159, 182
China	182
China – Hong Kong Special Administrative Region	148, 182
China – Macau Special Administrative Region	138, 182
Colombia	6, 111, 169
Comoros	13
Costa Rica	81, 88, 95, 111
Cuba	77, 78, 79, 81, 138, 148
Cyprus	95, 111, 155
Czech Republic	77, 90, 100, 148, 155
Democratic Republic of the Congo	95, 111

List of the cases in which the Committee has been able to note with interest various measures taken by the governments of the following countries:	
Denmark	100, 111, 139, 155, 167
Denmark – Greenland	5, 6
Dominican Republic	119, 138, 167, 182
Ecuador	81, 111, 123, 138, 159, 169, 182
Egypt	62, 81, 129, 138, 148, 182
El Salvador	81, 111, 129, 138, 159, 182
Finland	100, 111, 119, 120, 148, 155, 161, 167, 182
France	42, 62, 98, 129, 139, 182
France – French Polynesia	13, 81
France – Guadeloupe	111, 129
France – Réunion	81
Gabon	182
Germany	111, 139, 161, 167
Ghana	88, 111, 117, 148
Greece	111
Grenada	81
Guatemala	59, 77, 111, 112, 138, 167, 169, 182
Guinea	62, 182
Guyana	111, 138, 182
Honduras	81
Hungary	77, 111, 115, 155, 161
Iceland	155, 182
India	5, 141
Indonesia	100, 111
Ireland	111, 155, 182
Israel	77
Italy	111, 139, 182
Jamaica	81, 111
Japan	100, 156
Jordan	129
Kazakhstan	182
Kenya	19, 81
Republic of Korea	81, 150, 182
Kuwait	119
Kyrgyzstan	81
Lao People's Democratic Republic	13
Latvia	81, 160

List of the cases in which the Committee has been able to note with interest various measures taken by the governments of the following countries:	
Libyan Arab Jamahiriya	14
Lithuania	87, 100
Luxembourg	8, 108, 150
Madagascar	98, 129, 138
Malawi	129, 182
Malaysia – Peninsular Malaysia	17
Mauritania	81
Mauritius	150, 160
Mexico	115, 150, 164
Republic of Moldova	81, 100, 111, 129
Mongolia	111
Netherlands	160
New Zealand	29, 81, 134
Nicaragua	17, 24, 144
Niger	138, 182
Nigeria	87
Norway	100, 156, 167, 176, 178
Oman	182
Pakistan	22
Panama	81, 108, 160
Paraguay	79, 81, 90, 169
Peru	71, 81, 102
Portugal	81, 102, 158
Qatar	182
Romania	9, 108
Russian Federation	115, 160
Saudi Arabia	81
Serbia	98, 111
Singapore	8, 81
Slovakia	115
Slovenia	81, 111, 129, 158, 161
Solomon Islands	81
South Africa	63
Spain	62, 100, 102, 111, 115, 136, 147, 155, 156, 160
Sri Lanka	111, 138
Sudan	81
Swaziland	87, 98

List of the cases in which the Committee has been able to note with interest various measures taken by the governments of the following countries:	
Sweden	119, 139, 145, 148, 155, 160, 161, 167, 174
Switzerland	168
Syrian Arab Republic	129
United Republic of Tanzania	16, 63, 138, 170
The former Yugoslav Republic of Macedonia	87
Tunisia	81
Turkey	81, 87, 102
Uganda	159
Ukraine	87, 95, 98
United Arab Emirates	81
United Kingdom	68, 81, 98, 100, 111
United Kingdom – Bermuda	147
United Kingdom – British Virgin Islands	8
United Kingdom – Falkland Islands (Malvinas)	8
United Kingdom – Gibraltar	160
United Kingdom – Isle of Man	22
United Kingdom – Jersey	81
United States	160, 182
Uruguay	29, 63, 81, 98, 111, 129, 131, 133, 134, 138, 150
Bolivarian Republic of Venezuela	3, 81, 87, 127, 139
Viet Nam	182
Yemen	87, 98, 111
Zambia	111
Zimbabwe	81, 98, 129, 150

Role of employers' and workers' organizations

55. At each session, the Committee draws the attention of governments to the important role of employers' and workers' organizations in the application of Conventions and Recommendations. Moreover, it highlights the fact that numerous Conventions require consultation with employers' and workers' organizations, or their collaboration in a variety of measures. The Committee notes 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 Office.

Observations made by employers' and workers' organizations

56. Since its last session, the Committee has received 518 observations (compared to 577 last year), 27 of which were communicated by employers' organizations and 491 by workers' organizations. The Committee recalls the importance it attaches to this contribution by employers' and workers' organizations to the work of the supervisory bodies, which is essential for the Committee's evaluation of the application of ratified Conventions in law and in practice.

57. The majority of the observations received (515) relate to the application of ratified Conventions (see Appendix III).¹⁵ Some 382 of these observations relate to the application of fundamental Conventions and 133 concern the application of other Conventions. Moreover, three observations concern reports provided by governments under

¹⁵ An indication of the observations made by employers' and workers' organizations on the application of Conventions received during the current year is available on the ILO web site: <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm>.

article 19 of the Constitution on the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105).¹⁶

58. The Committee notes that, of the observations received this year, 386 were transmitted directly to the Office which in accordance with the practice established by the Committee, referred them to the governments concerned for comment. The Committee emphasizes that such observations should be received by the Office by 1 September at the latest to allow governments to have a reasonable time to respond, thereby enabling the Committee to examine the issues in question at its session in November the same year. Observations received later than 1 September will be examined by the Committee at its session the following year. In 132 cases, the governments transmitted the observations with their reports, sometimes adding their own comments.

59. The Committee also examined a number of other observations by employers' and workers' organizations, consideration of which had been postponed from its previous session because the observations of the organizations or the replies of the governments had arrived just before or just after the session. It again had to postpone until its next session, the examination of a number of observations, when they were received too close to or even during the Committee's present session, in particular to allow reasonable time for the governments concerned to make comments.

60. The Committee notes that in most cases the employers' and workers' organizations endeavoured to gather and present elements of law and fact on the application in practice of ratified Conventions. The Committee recalls that it is important for the organizations, when referring specifically to the Convention or Conventions deemed relevant, to provide detailed information that has real additional value with regard to the information provided by the governments and the issues addressed in the Committee's comments. Such information should help to update or renew the analysis of the application of Conventions and emphasize real problems concerning application in practice. The Committee hopes that the Office will provide adequate assistance in this regard to the organizations concerned.

61. The second part of this report contains most of the comments made by the Committee on cases in which the observations raised matters relating to the application of ratified Conventions. Where appropriate, other observations are examined in requests addressed directly to the governments.

Submission of instruments adopted by the Conference to the competent authorities (article 19, paragraphs 5, 6 and 7, of the Constitution)

62. In accordance with its terms of reference, the Committee this year examined the following information supplied by the 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 the Human Resources Development Recommendation, 2004 (No. 195), adopted by the Conference at its 92nd Session;
- (b) additional information on the steps taken to submit to the competent authorities the instruments adopted by the Conference up to its 91st Session (2003);
- (c) replies to the observations and direct requests made by the Committee at its 76th Session (November–December 2005).

63. The Committee took note of the decision adopted by the Governing Body at its 294th Session (November 2005) to place on the agenda of the 96th Session of the Conference (June 2007) an item on work in the fishing sector with a view to the adoption of a Convention supplemented by a Recommendation. As a result of that decision, the Director-General did not communicate to member States the authentic text of the Recommendation concerning work in the fishing sector adopted by the Conference on 16 June 2005 (93rd Session).

64. At its 94th (Maritime) Session (February 2006), the Conference adopted the Maritime Labour Convention, 2006. The 12-month period for submission of this instrument to the competent authorities ends on 23 February 2007, and the 18-month period, on 23 August 2007.

65. At its 95th Session (June 2006), the Conference adopted the Promotional Framework for Occupational Safety and Health Convention (No. 187) and Recommendation (No. 197) and the Employment Relationship Recommendation (No. 198). The 12-month period for submission to the competent authorities of Convention No. 187 and Recommendations Nos. 197 and 198 ends on 16 June 2007, and the 18-month period, on 16 December 2007.

66. Some governments have sent the Office information on the steps taken to submit to the competent authorities the instruments adopted at the 94th (Maritime) Session (February 2006) and the 95th Session (May–June 2006) of the Conference. Appendix IV to Part Two of the report contains a summary showing where the information has been supplied, the name of the competent authority to which the instruments adopted by the Conference at its 92nd, 94th and 95th Sessions were submitted, and the date of submission.

¹⁶ See Report III (Part 1B) of the present report containing the General Survey.

67. Other statistical information is to be found in Appendices V and VI of Part Two of the report. Appendix V, compiled from information sent by governments, shows where each member State stands in terms of its obligation to submit instruments adopted by the Conference to the competent authorities. Appendix VI shows the overall situation regarding the instruments adopted since the 51st Session (June 1967) of the Conference. The statistical data in Appendices V and VI are regularly updated by the competent branches of the Office and can be accessed via the Internet.

92nd Session

68. Recommendation No. 195, adopted by the Conference at its 92nd Session (2004), was to be submitted to the competent authorities within one year or, under exceptional circumstances, within 18 months of the closure of the session of the Conference, that is, before 17 June 2005 and 17 December 2005, respectively. In all, 18 governments have sent new information on the steps taken to submit Recommendation No. 195 to the authorities they consider competent: **Australia, Austria, Barbados, Bulgaria, Burundi, China, Denmark, Guyana, India, Malawi, Netherlands, Portugal, Qatar, San Marino, South Africa, Switzerland, Thailand and United States.**

69. On transmitting the authentic text of Recommendation No. 195 to governments, the Director-General reminded member States that had not yet ratified the Human Resources Development Convention, 1975 (No. 142), that they could examine both instruments – Convention No. 142 and Recommendation No. 195 – together, in the context of tripartite consultations relating to the ratification of the Convention and the acceptance of the Recommendation. In its General Survey of 2004,¹⁷ the Committee had the opportunity to examine the information sent by governments concerning the promotion of employment and the development of human resources.

Cases of progress

70. The Committee noted with interest the information sent in 2006 by the Governments of **Burundi, Guinea-Bissau, Malawi and Mali**, and welcomes the fact that instruments left in abeyance for several years have now been submitted to the National Assembly.

Special problems

71. To facilitate the work of the Committee on the Application of Standards, this report points out cases in which governments have provided no information on submission to the competent authorities of instruments adopted by the Conference for the last seven sessions or more. The “last seven sessions” time frame was deemed long enough to warrant inviting Government delegations to a special sitting of the Conference Committee so that they may account for the delays in submission.

72. The Committee notes that at the closure of its 77th Session, i.e. 8 December 2006, seven governments have sent no information on the submission to the competent authorities of the instruments adopted by the Conference at the last seven sessions (from the 86th to the 92nd) or more: **Afghanistan, Haiti, Sierra Leone, Solomon Islands, Somalia, Turkmenistan and Uzbekistan.** The Committee is aware that certain of these countries have been affected by exceptional circumstances for many decades and that they lack the appropriate institutions to discharge the obligation of submission.

73. Nevertheless, as the Committee has had occasion to point out in previous reports, the situation also gives rise to concern in many countries. There is a danger that many countries not mentioned in the previous paragraph may experience considerable difficulties, or even find it impossible to bring themselves up to date.

74. The Committee has identified the countries concerned in the observations published in this report and the instruments which have not been submitted are indicated in the statistical appendices. The Committee observes that around 60 countries have not yet submitted the instruments adopted by the Conference in at last seven sessions. Certain countries, however, should have no difficulties in fulfilling this constitutional obligation.

75. The Committee wishes to highlight that neither the parliaments nor civil society in these countries have been regularly informed of the existence of new instruments as they were adopted by the Conference, which defeats the real purpose of the obligation of submission. It therefore encourages the social partners to call upon governmental authorities to ensure that these instruments are submitted in practice to national parliaments.

76. The Committee has regularly underlined the importance of transmitting information to parliamentary bodies, the most widely used procedure for deciding on the ratification of Conventions and Protocols or the implementation of Recommendations at national level. A thorough technical analysis and effective tripartite dialogue are necessary to any decision regarding the effect to be given at national level to instruments adopted by the Conference. The very fact of bringing these instruments regularly to the attention of parliamentary bodies also allows the democratically elected representatives to be made aware of the social issues dealt with by the Organization.

77. The Committee would therefore request the Office to launch an urgent appeal to the countries where there is delay in fulfilling this essential constitutional obligation and invites them to contact the Office with a view to finding ways of overcoming their difficulties. It hopes that the necessary steps will be taken by the government authorities and the social partners to ensure that every effort is made to submit to parliaments the instruments that have not yet been brought

¹⁷ *Promoting employment, policies – skills – enterprises*, ILC, 92nd Session, 2004, Report III (Part 1B).

to their attention. It trusts that governments and the social partners will draw on the cases of progress mentioned by the Committee in previous reports and on the Office's experience.

Comments of the Committee and replies from governments

78. As in its previous reports, the Committee makes individual observations, in section III of Part Two of this report, on the points that should be brought to the special attention of governments. Observations are made in cases where there has been no information for five or more sessions of the Conference. Furthermore, requests for additional information on other points have been addressed directly to a number of countries (see list of direct requests at the end of section III).

79. The Committee hopes that these 78 observations and 42 direct requests that it is addressing this year to governments will enable them better to discharge their constitutional obligation of submission and so contribute to the promotion of the standards adopted by the Conference.

80. As the Committee has already pointed out, it is important that governments should send the information and documents required by the questionnaire at the end of the Memorandum adopted by the Governing Body in March 2005. The Committee must receive, for examination, a summary or a copy of the documents submitting the instruments to the parliamentary bodies and be informed of the proposals made as to the action to be taken on them. The obligation of submission is discharged only once the instruments adopted by the Conference have been submitted to parliament and the competent authorities have taken a decision on them. The Office has to be informed of this decision as well as of the submission of instruments to parliament.

81. The Committee hopes to be able to note progress in this matter in its next report. It again reminds governments that they may seek technical assistance from the ILO, particularly through the standards specialists in the field.

Instruments chosen for reports under article 19 of the Constitution

82. In accordance with the decision taken by the Governing Body,¹⁸ governments were requested to supply reports under article 19 of the Constitution, on the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105).

83. A total of 25 reports were requested and 11 were received.¹⁹ This represents 44 per cent of the reports requested.

84. 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 Constitution has been received from the following 27 countries: **Albania, Angola, Antigua and Barbuda, Armenia, Bosnia and Herzegovina, Cape Verde, Comoros, Congo, Democratic Republic of the Congo, Djibouti, Dominican Republic, Guinea, Guyana, Kazakhstan, Kiribati, Kyrgyzstan, Liberia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Turkmenistan, Uganda, Uzbekistan.**

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

86. Part III of this report (issued separately as Report III (Part 1B)) contains the General Survey on forced labour. In accordance with the practice followed in previous years, the survey has been prepared on the basis of a preliminary examination by a working party comprising three members of the Committee.

¹⁸ Document GB.288/LILS/7.

¹⁹ ILO: Report III (Part 1B), ILC, 96th Session, 2007.

III. Collaboration with other international organizations and functions relating to other international instruments

A. Cooperation in the field of standards with the United Nations, the specialized agencies and other international organizations

87. In the context of collaboration with other international organizations on questions concerning supervision of the application of international instruments relating to subjects of common interest, the United Nations, certain specialized agencies and other intergovernmental organizations with which the ILO has entered into special arrangements for this purpose, are asked whether they have information on how Conventions are being applied. The list of the Conventions concerned and the international organizations that were consulted is as follows:

- Indigenous and Tribal Populations Convention, 1957 (No. 107): United Nations Food and Agriculture Organization (FAO), Inter-American Indian Institute of the Organization of American States, United Nations, United Nations Centre for Human Rights, United Nations Educational, Scientific and Cultural Organization (UNESCO) and World Health Organization (WHO);
- Radiation Protection Convention, 1960 (No. 115): International Atomic Energy Agency (IAEA);
- Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117): FAO, United Nations, United Nations Centre for Human Rights and UNESCO;
- Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), and Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147): International Maritime Organization (IMO);
- Rural Workers' Organizations Convention, 1975 (No. 141): FAO, United Nations and United Nations Centre for Human Rights;
- Human Resources Development Convention, 1975 (No. 142): UNESCO;
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143): United Nations, United Nations Centre for Human Rights, UNESCO and WHO;
- Nursing Personnel Convention, 1977 (No. 149): WHO;
- Indigenous and Tribal Peoples Convention, 1989 (No. 169): FAO, Inter-American Indian Institute of the Organization of American States, United Nations, United Nations Centre for Human Rights, UNESCO and WHO.

B. United Nations treaties concerning human rights

88. The Committee emphasizes that international labour standards and the provisions of related United Nations human rights treaties are complementary and mutually reinforcing. It therefore welcomes the continuing cooperation between the ILO and the United Nations with regard to the application and supervision of the respective instruments.

89. The Committee notes the efforts made by the Office to provide written and oral information to United Nations treaty bodies on a regular basis, which ensures that these bodies continue to refer to international labour standards and to recommend measures that follow up on the Committee's comments. The Committee of Experts also continued to follow

the work of the United Nations' treaty bodies and to take their comments into consideration where appropriate. As in previous years, this has particularly been the case in the areas of child labour, forced labour and discrimination.

90. The Committee's annual meeting with the United Nations Committee on Economic, Social and Cultural Rights took place in the context of the international colloquium held on the occasion of the 80th anniversary of the Committee of Experts (24–25 November 2006). Following the 2005 meeting between the two committees, during which the human right to social security was discussed, a member of the Committee of Experts and the Office participated in a day of general discussion convened by the Committee on Economic, Social and Cultural Rights on 15 May 2006 to prepare for the adoption of a general comment on this basic human right. Representatives of the International Organization of Employers (IOE) and the International Confederation of Free Trade Unions (ICFTU) participated as well in this debate. The Committee looks forward to continuing cooperation and dialogue with this committee in order to promote coherent international monitoring as a basis for action to enhance the enjoyment of economic, social and cultural rights at the national level.

C. European Code of Social Security and its Protocol

91. In accordance with the supervisory procedure established under article 74(4) of the Code, and the arrangements made between the ILO and the Council of Europe, the Committee of Experts examined 17 reports on the application of the European Code of Social Security and, as appropriate, its Protocol. It noted that the States parties to the Code and the Protocol continue to apply them in large measure. At the sitting in which the Committee examined the reports on the Code and its Protocol, the Council of Europe was represented by Ms Michèle Akip. The conclusions of the Committee regarding these reports will be sent to the Council of Europe for examination by the Committee of Experts on Standard-Setting Instruments in the Field of Social Security. Representatives of the ILO will participate next year as technical advisers in the meeting of this Committee, during which the Committee of Experts' conclusions will be examined.

92. This year, on the occasion of its 80th anniversary, the Committee undertook a review covering the last ten years (1995–2005) of the examination of the application of the Code and its Protocol. Within the framework of this examination which has been carried out for almost 40 years, the Committee has always strived to preserve a minimum level of social protection for workers at the regional level. In doing so, with its double responsibility both in respect of these two instruments and with regard to international labour standards relating to social security, notably Convention No. 102, the Committee sought to develop a coherent analysis of the application of European and international instruments and to coordinate the obligations of the States parties to these instruments. The Committee drew attention to the considerable potential of the promotion of the acceptance of the non-accepted parts of the Code and its Protocol, given the fact that the member States concerned have already assumed analogous obligations under Convention No. 102 and other social security-related ILO Conventions. It also determined the national situations in which recourse to technical assistance of the Council of Europe and the Office proved to be an effective means of improving the application of European and international instruments. Since 2000, in the light of measures taken by the governments in response to its conclusions, the Committee noted a number of *cases of progress* in the application of the Code and Convention No. 102, concerning, in particular, Germany, Cyprus, Spain, France, Norway, Portugal and Turkey. The review of the Committee of Experts forms an integral part of the proceedings of the colloquium organized to celebrate the 80th anniversary of the Committee's creation and will therefore be published next year.

* * *

93. Lastly, the Committee would like to express its appreciation for the invaluable assistance again rendered to it by the officials of the Office, whose competence and devotion to duty make it possible for the Committee to accomplish its increasingly voluminous and complex task in a limited period of time. In particular, this year the Committee expressed its appreciation for the work done by all those officials involved in designing and organizing the international colloquium to celebrate the Committee's 80th anniversary, thereby ensuring its success.

Geneva, 8 December 2006.

(Signed) Robyn Layton, QC,
Chairperson.

A. Al-Fuzaie,
Reporter.

Appendix to the General Report

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

Mr Mario ACKERMAN (Argentina),

Director of the Labour Law and Social Security Department and Professor in Labour Law, University of Buenos Aires; former adviser to the Parliament of Argentina; former Director of the Labour Police of the National Ministry of Labour and Social Security.

Mr Anwar Ahmad Rashed AL-FUZAIE (Kuwait),

Docteur en droit; Professor of Law; Professor of Private Law of the University of Kuwait; attorney; former member of the International Court of Arbitration of the International Chamber of Commerce (ICC); member of the Administrative Board of the Centre of Arbitration of the Chamber of Commerce and Industry of Kuwait; Member of the Governing Body of the International Islamic Centre for Mediation and Commercial Arbitration (Abu Dhabi); former Director of Legal Affairs of the Municipality of Kuwait; former Adviser to the Embassy of Kuwait (Paris).

Mr Denys BARROW SC (Belize),

Judge of Appeal for the Eastern Caribbean Supreme Court; former High Court Judge for Belize, Saint Lucia, Grenada and the British Virgin Islands; former Chairperson of the Social Security Appeals Tribunal in Belize; former member of the Committee of Experts for the Prevention of Torture in the Americas.

Ms Janice R. BELLACE (United States),

Deputy Provost, University of Pennsylvania and Samuel Blank (United States), Professor and Professor of Legal Studies and Management of the Wharton School, University of Pennsylvania; Trustee and Founding President, Singapore Management University; Senior Editor, *Comparative Labor Law and Policy Journal*; President-elect of the International Industrial Relations Association; member of the Executive Board of the US branch of the International Society of Labor Law and Social Security; member of the Public Review Board of the United Automobile, Aerospace and Agricultural Implements Workers' Union; former Secretary of the Section on Labor Law, American Bar Association.

Mr Lelio BENTES CORRÊA (Brazil),

Judge at the Labour Federal High Court (Tribunal Superior do Trabalho) of Brazil, former Labour Public Prosecutor of Brazil, Professor at the Centro de Ensino Unificado de Brasília.

Mr Michael Halton CHEADLE (South Africa),

Professor of Labour Law at the University of Cape Town; former Chief Legal Counsel of the Congress of South African Trade Unions; former Special Adviser to the Labour Minister; former Convener of the Task Team to draft the South African Labour Relations Act.

Ms Laura COX, QC (United Kingdom),

Justice of the High Court, Queen's Bench Division and Judge of the Employment Appeal Tribunal; LL B, LL M of the University of London; previously a barrister specializing in employment law, discrimination and human rights; Head of Cloisters Chambers, Temple (1995–2002); Chairperson of the Bar Council Sex Discrimination Committee (1995–99) and Equal Opportunities Committee (1999–2002); Bencher of the Inner Temple; member of the Independent Human Rights Organization Justice (former Council member) and one of the founding Lawyers of Liberty (the National Council for Civil Liberties); previously a Vice-President of the Institute of Employment Rights and member of the Panel of Experts advising the Cambridge University Independent Review of Discrimination Legislation; Chairperson of the Board of INTERIGHTS, the International Centre for the Legal Protection of Human Rights (2001–04) and Chairperson of the Equality and Diversity Advisory Committee of the Judicial Studies Board (2003–); appointed Honorary Fellow of Queen Mary College, London University (2005); member of Council of the University of London (2003–06); President of the Association of Women Barristers and Committee member of the United Kingdom Association of Women Judges.

Ms Blanca Ruth ESPONDA ESPINOSA (Mexico),

Doctor of Law; Professor of International Public Law at the National Autonomous University of Mexico; member of the National Federation of Lawyers and of the Lawyers' Forum of Mexico; recipient of the award for Juridical Merit "the Lawyer of the Year (1993)"; Social Counselor and member of the Governing Body of the National Institute for Women; President of the Planned Parenthood Federation/Western Hemisphere (IPPF/WHR). She has been: President of the Senate of Mexico and of the Foreign Relations Committee; Secretary of the House of Representatives; President of the Population and Development Committee and member of the Labour and Social Security Committee; President of the Congress of the State of Chiapas; President of the Inter-American Parliamentary Group on Population and Development (IPG); Vice-President of the Global Forum of Spiritual and Parliamentary Leaders; Director-General of the National Institute for Labour Studies; Commissioner of the National Immigration Institute and editor of the *Mexican Labour Review*.

Mr Abdul G. KOROMA (Sierra Leone),

Judge at the International Court of Justice since 1994; President of the Henri Dunant Centre for Humanitarian Dialogue in Geneva; former member of the International Law Commission; former Ambassador and Ambassador Plenipotentiary to many countries as well as to the United Nations.

Ms Robyn A. LAYTON, QC (Australia),

Justice of the Supreme Court of South Australia; LL B, LL M, Barrister-at-Law; former Judge and Deputy President of the South Australian Industrial Court and Commission; former Deputy President of the Federal Administrative Appeals Tribunal; Reporter on a Child Protection framework for South Australia; former Chairperson of the Human Rights Committee of the Law Society of South Australia; former Director, National Rail Corporation; former Commissioner on the Health Insurance Commission; former 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.

Mr Pierre LYON-CAEN (France),

Honorary Advocate-General, Court of Cassation (Social Division); President, Journalists Arbitration Commission; Former Deputy Director, Office of the Minister of Justice; Public Prosecutor at the Nanterre Tribunal de Grande Instance (Hauts de Seine); former President of the Pontoise Tribunal de Grande Instance (Val d'Oise); graduate of the Ecole Nationale de la Magistrature.

Mr Sergey Petrovitch MAVRIN (Russian Federation),

Judge of the Constitutional Court of the Russian Federation; Professor of Labour Law (Law Faculty of the St. Petersburg State University); Doctor of Law; former Chief of the Labour Law Department; former Director of the Interregional Association of Law Schools.

Ms Angelika NUSSBERGER, MA (Germany),

Doctor of Law; Professor of Law at the University of Cologne; Director of the Institute for Eastern European Law of the University of Cologne, substitute member of the European Commission for Democracy through Law (Venice Commission) of the Council of Europe, former legal adviser in the Directorate General of Social Cohesion of the Council of Europe (2001–02).

Ms Ruma PAL (India),

Judge of the Supreme Court of India from 2000 to June 2006; former judge in the Calcutta High Court; former member of the General Council of National Law School of India University; former member of the Executive Committee of the National Judiciary Academy; former member of the General Council and Executive Council of the West Bengal National University on Juridical Sciences; founding member of the Asia-Pacific Advisory Forum on Judicial Education on equality law; member of the International Association of Women Judges; Executive Council member of the Commonwealth Human Rights Initiative and member of various other national and regional bodies.

Mr Miguel RODRIGUEZ PIÑERO Y BRAVO FERRER (Spain),

Doctor of Law; President of the Second Section of the Council of State (Legal, Labour and Social Matters); Professor of Labour Law; Doctor *honoris causa* of the University of Ferrara (Italy) and the University of Huelva (Spain); President Emeritus of the Constitutional Court; member of the European Academy of Labour Law, the Ibero-American Academy of Labour Law, the Andalusian Academy of Social Sciences and the Environment, and the European Institute of Social Security; Director of the review *Relaciones Laborales*; President of the SIGLO XXI Club; recipient of the gold medallion of the University of Huelva, and of the Labour Gold Medallion; former President of the National Advisory Commission on Collective Agreements and President of the Andalusian Industrial Relations Council; former Dean of the Faculty of Law of the University of Seville; former Director of the University College of La Rábida; President ad honorem of the Spanish Association of Labour Law and Social Security.

Mr Amadou SÔ (Senegal),

Honorary President of the Council of State; former member of the Constitutional Council; former President of the Social and Administrative Section of the Supreme Court; former Secretary-General of the Supreme Court; former Councillor of the Supreme Court; former President of the Social Chamber of the Court of Appeal; former Director of Judicial Services; former Councillor of the Court of Appeal; former President of the Dakar Labour Court; former Auditor of the Supreme Court; former Inspector of Railways.

Mr Budislav VUKAS (Croatia),

Professor of Public International Law at the University of Zagreb, Faculty of Law; member of the Institute of International Law; member of the Permanent Court of Arbitration; member of the OSCE Court of Conciliation and Arbitration; 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.

Mr Yozo YOKOTA (Japan),

Professor, Chuo Law School; Special Adviser to the Rector, United Nations University; Member of the UN Sub-Commission on the Promotion and Protection of Human Rights.



Part II. Observations concerning particular countries

I. Observations concerning reports on ratified Conventions (articles 22 and 35, paragraphs 6 and 8, of the Constitution)

General observations

Albania

The Committee notes that 19 out of 25 reports due have not been received, including the first reports due since 2005 on Conventions Nos. 174, 175 and 176. The absence of these first reports has prevented any examination of the application of these three Conventions. The Committee is concerned by these difficulties. The Committee notes that the Office is closely following up the matter. The Committee strongly hopes that the Government will, with the necessary support of the Office, fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Antigua and Barbuda

The Committee notes that the Government has resumed this year the communication of the reports due, after three years of interruption. It wishes to acknowledge the efforts thus made. It nonetheless notes that 15 reports are still due out of 26 requested to be submitted this year. It places special emphasis on the first reports concerning the following Conventions, which have not been received: Conventions Nos. 122, 131, 135, 142, 144, 150, 151, 154, 155, 158, 161 and 182 since 2004 and Convention No. 100 since 2005. The absence of these first reports has prevented any examination of the application of these 13 Conventions. The Committee calls upon the Government to pursue its efforts so as to comply fully with its constitutional obligation to supply the reports due on the application of ratified Conventions. The Committee reminds the Government that it can avail itself of the Office's technical assistance, as was pointed out in the letter of 28 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006).

Armenia

The Committee notes with regret that for the 12th year in succession, the reports due have not been received, with the exception of the first report on Convention No. 122 which had been due since 1996 and has been received this year, and that consequently 13 reports are now due. The Committee also notes with regret that the first reports on the following Conventions have not been received: Convention No. 111 (first report due since 1995); Conventions Nos. 100, 135 and 151 (first reports due since 1996); Convention No. 174 (first report due since 1998); Convention No. 176 (first report due since 2001); Conventions Nos. 17 and 98 (first reports due since 2005). The absence of these first reports has prevented any examination of the application of these eight Conventions. On the other hand, the Committee notes that the Government pledged to fulfil its reporting obligations in its reply of 11 September 2006 to the Office's letter following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006). The Committee also notes that, at the beginning of October, the Government received the

Office's technical assistance for the preparation of the reports. In these circumstances, the Committee firmly hopes that the Government will very soon supply the remaining reports on the application of ratified Conventions, in accordance with its constitutional obligation.

Bosnia and Herzegovina

The Committee notes that 42 out of 49 reports due have not been received, including the first reports due on the following Conventions: Convention No. 105 (first report due since 2002) and Convention No. 182 (first report due since 2003). The absence of these first reports has prevented any examination of the application of these two fundamental Conventions. The Committee notes that the Government is receiving ongoing technical assistance from the Office to enable it to submit the reports due. Within the framework of this assistance, the specific situation faced by the country, namely that the labour and social issues fall under the competence of the various entities, has been taken into account and solutions identified. The Committee strongly hopes that the steps currently undertaken by the Government will enable it to fulfil, without further delay, its obligation to supply the reports due on ratified Conventions, in accordance with its constitutional obligation.

Cambodia

The Committee notes that, for the second consecutive year, the reports due have not been received, and that consequently 11 reports are now due. The Committee notes that, according to the Government's representative before the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006), the Government has established a working group in charge of the obligations arising from ILO membership. The Committee notes that the Office has drawn the Government's attention to the necessity of submitting the reports due on several occasions, including through its letter of 28 August 2006 following up on the conclusions of the Committee on the Application of Standards. In these circumstances, the Committee requests the Government to fulfil, without further delay, its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Comoros

The Committee notes that the Government has communicated three out of 24 reports due, after two years of interruption. The Committee also notes that, in its reply of 19 October 2006 to the Office's letter following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006), the Government expresses its willingness to fulfil its reporting obligations. The Government explains that the units in charge of the submission of reports are facing a number of difficulties and requests the Office's technical assistance to overcome these difficulties. The Committee notes that the Office has indicated to the Government that this assistance will be provided in the next months. In these circumstances, the Committee strongly hopes that, with the support of the Office, the Government will pursue its efforts to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Congo

The Committee notes that, for the second consecutive year, the reports due have not been received, and that consequently 18 reports are now due. The Committee notes that the Government's representative before the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006) indicated that the reports would be submitted in the near future. The Committee firmly hopes that the Government will soon fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation. The Committee reminds the Government that it can avail itself of the Office's technical assistance, as was pointed out in the letter of 29 August 2006 following up on the conclusions of the Committee on the Application of Standards.

Côte d'Ivoire

The Committee notes that the first report due since 2005 on Convention No. 138 has not been received. The absence of this first report has prevented an examination of the application of this fundamental Convention. The Committee hopes that the Government will fulfil its obligation to supply, without further delay, the first report on Convention No. 138, in accordance with its constitutional obligation.

Denmark

Faeroe Islands

The Committee notes that, for the second consecutive year, the reports due have not been received, and that consequently eight reports are now due.

Greenland

The Committee notes that four out of six reports due have not been received.

The Committee recalls that the failure to submit reports on the application of the Conventions declared applicable to these non-metropolitan territories arises at regular intervals. In these circumstances, the Committee hopes that the necessary measures will be taken to address this issue and that the Government will fulfil its obligation to supply the reports due, in accordance with its constitutional obligation.

Dominica

The Committee notes that the 19 reports due have not been received, including the first reports due for the following Conventions: Convention No. 182 (since 2003) and Conventions Nos. 144 and 169 (since 2004). The absence of these first reports has prevented any examination of the application of these three Conventions. The Committee is concerned by these difficulties. The Committee hopes that the Government will provide the Office with explanations on the particular difficulties encountered, as it was invited to do in the Office's letter of 28 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006). Such explanations would at least allow the Office to advise the Government on possible solutions to remedy the situation. The Committee requests the Government to make every effort to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Equatorial Guinea

The Committee notes that the eight reports due have not been received, including the first reports due since 1998 on Conventions Nos. 68 and 92. The Committee notes that last year the Government had requested the Office's technical assistance in relation to the submission of reports. In these circumstances, the Committee hopes that the Office will be in a position to provide the necessary assistance in the near future so as to enable the Government to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Gambia

The Committee notes that the first reports due on the following Conventions have not been received: Conventions Nos. 29, 105 and 138 since 2002; and Convention No. 182 since 2003. The absence of these first reports has prevented any examination of the application of these four fundamental Conventions. The Committee is concerned by these difficulties. In these circumstances, the Committee hopes that the Government will provide the Office with explanations on the particular difficulties encountered, as it was invited to do in the Office's letter of 28 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006). Such explanations would at least allow the Office to advise the Government on possible solutions to remedy the situation. The Committee requests the Government to make every effort to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Iraq

The Committee notes that for the fourth year in succession, the reports due have not been received, and that consequently 52 reports are now due, including the first reports due since 2003 on Conventions Nos. 172 and 182. In its reply of 24 September 2006 to the Office's letter of 28 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006), the Government highlights the actions taken to implement international labour standards and presents various technical cooperation proposals, with a view to enabling the Ministry of Labour to develop policies and programmes in a number of fields. The Committee hopes that any cooperation to be developed between the Office and the Government will address the issue of the submission of the reports due on the application of ratified Conventions and that the Government will in due course be able to fulfil its constitutional obligation in this regard.

Kyrgyzstan

The Committee notes that the 45 reports due have not been received, including the first reports on the following Conventions: Convention No. 133 since 1995; Convention No. 105 since 2001; and Conventions Nos. 150 and 154 since 2005. The absence of these first reports has prevented any examination of the application of these four Conventions. The Committee is concerned by these difficulties. In these circumstances, the Committee strongly hopes that the Government will provide the Office with explanations on these difficulties, as it was invited to do in the Office's letter of 25 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006). Such explanations would at least allow the Office to advise the Government on possible solutions to remedy the situation. The Committee requests the Government to make every effort to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Liberia

The Committee notes with regret that, for the seventh year in succession, the reports due have not been received, and that consequently 21 reports are now due, including the first reports due since 1992 on Convention No. 133 and since 2005 on Conventions Nos. 81, 144, 150 and 182. The Committee is concerned by the persistence of the difficulties concerning the submission of reports. On the other hand, the Committee notes that, following the Government's request, the Office is currently examining the implementation of broad technical assistance activities, including with respect to international labour standards issues. The Committee hopes that this technical assistance will enable the Government to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Saint Kitts and Nevis

The Committee notes that the reports due have not been received for the second consecutive year, and that consequently eight reports are now due, including, since 2002, the first reports on Conventions Nos. 87, 98 and 100. The absence of these first reports has prevented any examination of the application of these three fundamental Conventions. Noting that the Office provided technical assistance last year, the Committee is concerned by the persistence of the difficulties. In these circumstances, the Committee strongly hopes that the Government will provide the Office with explanations of the existing difficulties, as it was invited to do in the Office's letter of 25 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006). Such explanations would at least allow the Office to advise the Government on possible solutions to remedy the situation. The Committee requests the Government to make every effort to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Saint Lucia

The Committee notes that the reports due have not been received for the third year in succession, and that consequently 19 reports are now due, including, since 2002, the first reports on Conventions Nos. 154, 158 and 182. The absence of these first reports has prevented any examination of the application of these three Conventions. The Committee is concerned by the persistence of these difficulties. In these circumstances, the Committee strongly hopes that the Government will provide the Office with explanations in this regard, as it was invited to do in the Office's letter of 25 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006). Such explanations would at least allow the Office to advise the Government on possible solutions to remedy the situation. The Committee requests the Government to make every effort to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

San Marino

The Committee notes that for the second consecutive year the reports due have not been received, despite the assurances given by the Government's representative before the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June, 2006) that the Government would fulfil its obligations within the prescribed time limits. The Committee notes that consequently 20 reports are now due. It trusts that the Government will fulfil, in the near future, its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Sao Tome and Principe

The Committee notes that, for the third year in succession, the reports due have not been received, and that consequently 12 reports are now due. The Committee is concerned by the persistence of these difficulties. In these

circumstances, the Committee strongly hopes that the Government will provide the Office with explanations in this regard, as it was invited to do in the Office's letter of 24 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006). Such explanations would at least allow the Office to advise the Government on possible solutions to remedy the situation. The Committee requests the Government to make every effort to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Serbia

The Committee notes that 18 out of 29 reports due have not been received, including the first reports due since 2003 on Conventions Nos. 27, 113 and 114; and since 2005 on Conventions Nos. 8, 16, 22, 23, 53, 56, 69, 73 and 74. The Committee notes that two of the first reports due since 2003 have been submitted, in line with the assurances given by the Government's representative before the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006). The Committee notes that the Office is closely following up the matter. Bearing in mind the important institutional transformations which have affected the country this year and which have not been completed yet, the Committee strongly hopes that the Government will pursue, with the support of the Office, the submission of the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

The former Yugoslav Republic of Macedonia

The Committee notes with regret that, for the ninth year in succession, the reports due have not been received, and that consequently 60 reports are now due, including, since 2004, the first report on Convention No. 182 and, since 2005, the first report on Convention No. 105. The Committee is concerned by these serious difficulties which have persisted, despite the technical assistance provided by the Office. The absence of these reports has prevented any examination of the application of the ratified Conventions over a long period of time. Moreover, the Committee worries that the longer this period is, the more difficult it will be for the Government to resume the submission of reports. The Committee notes that, following the Office's letter of 25 August 2006 on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June 2006), an official from the Ministry of Labour and Social Policy has recently received extensive training from the Office. The Committee trusts that this training will yield concrete results very soon. It urges the Government to make every effort to fulfil its obligation to supply the reports due, in accordance with its constitutional obligation.

Togo

The Committee notes that, for the second consecutive year, the reports due have not been received, and that consequently 11 reports are now due. The Committee notes that the Government has not replied to the Office's letter of 29 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June, 2006), which was sent with a view to making the necessary arrangements for the training requested by the Government's representative before the Committee on the Application of Standards. The Committee hopes that the appropriate steps will soon be taken, including the organization of any training needed by government officials, and that the Government will fulfil, in the near future, its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

Turkmenistan

The Committee notes with regret that, for the eighth year in succession, the six first reports due since 1999 have not been received. These reports relate to the application of Conventions Nos. 29, 87, 98, 100, 105 and 111. Their absence has prevented any examination of the application of these six fundamental Conventions, over a long period of time. On the other hand, following the Government's recent request for the Office's technical assistance on international labour standards, the Committee notes that the Office has proposed to the Government that such assistance takes place early next year. The Committee welcomes this important and positive development. It hopes that, with the necessary support of the Office, the Government will be in a position to fulfil its obligation to supply the reports long overdue, in accordance with its constitutional obligation, so that the supervision of the application of the ratified Conventions can be resumed next year.

Uganda

The Committee notes that 12 out of 20 reports due have not been received, including the first report on Convention No. 138, due since 2005. The absence of this first report has prevented an examination of the application of this fundamental Convention. The Committee hopes that the Government will fulfil its obligation to supply, without further delay, the reports due on ratified Conventions, in accordance with its constitutional obligation. It reminds the Government

that it can avail itself of the Office's technical assistance, as was pointed out in the letter of 25 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June, 2006).

United Kingdom

Anguilla

The Committee notes that the 15 reports due this year have not been received.

Montserrat

The Committee notes that the reports due have not been received for the second consecutive year, and that consequently 18 reports are now due. The Committee notes that technical assistance had been requested last year in this instance.

St. Helena

The Committee notes that the reports due have not been received for the third year in succession, and that consequently 16 reports are now due.

The Committee has taken due note of the specific difficulties encountered by the three non-metropolitan territories, as referred to by the Government's representative before the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June, 2006), which have prevented the Government from submitting the reports due in accordance with its constitutional obligation. The Committee strongly hopes that the steps taken by the Government and, in particular, its ongoing discussions with these non-metropolitan territories, will yield concrete positive results so that the reports due can be submitted in the near future. The Committee also hopes that the Office will soon be in a position to provide the technical assistance requested.

Uzbekistan

The Committee notes that, for the second consecutive year, the reports due have not been received, and that consequently six reports are now due. The Committee requests the Government to fulfil, without further delay, its obligation to supply the reports due on the application of ratified Conventions in accordance with its constitutional obligation. The Committee reminds the Government that it can avail itself of the Office's technical assistance, as was pointed out in the letter of 25 August 2006 following up on the conclusions of the Committee on the Application of Standards at the 95th Session of the International Labour Conference (May–June, 2006).

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Bahrain, Bangladesh, Belize, Bolivia, Botswana, Bulgaria, Burkina Faso, Burundi, Cape Verde, Cyprus, Democratic Republic of the Congo, Djibouti, Eritrea, Estonia, France: French Guiana, France: French Southern and Antarctic Territories, France: Martinique, Greece, Haiti, Indonesia, Islamic Republic of Iran, Jordan, Kazakhstan, Kiribati, Republic of Korea, Lao People's Democratic Republic, Lesotho, Madagascar, Malaysia, Malawi, Mongolia, Myanmar, Namibia, Papua New Guinea, Russian Federation, Rwanda, Saint Vincent and the Grenadines, Sierra Leone, Solomon Islands, Somalia, South Africa, Swaziland, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, United Republic of Tanzania: Tanganyika, Thailand, Trinidad and Tobago, Uganda, Viet Nam.*

Freedom of Association, Collective Bargaining, and Industrial Relations

Afghanistan

Rural Workers' Organisations Convention, 1975 (No. 141) (ratification: 1979)

The Committee takes note of the Government's report.

The Committee notes the draft Labour Code. It notes with interest that the draft Code does not make an express reference to the Central Council of the DRA's trade unions as to the single trade union organization enjoying certain prerogatives. *The Committee requests the Government to provide a copy of the Labour Code once it is adopted.*

Furthermore, the Committee requests the Government to: (1) provide statistical information concerning the number of rural workers' organizations in the country; (2) indicate the number of workers who are members of such organizations; (3) indicate whether self-employed workers enjoy the right to establish and join organizations of their own choosing without authorization; and (4) indicate whether workers of the agriculture sector enjoy trade union rights including the right to bargain collectively, to organize their activities, and to formulate their programmes, as well as to indicate the existing system to solve collective disputes, where there is a disagreement among the parties.

Algeria

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

The Committee notes the Government's report and its reply to the comments of the International Confederation of Free Trade Unions (ICFTU), dated 31 August 2005. It also notes the comments of the ICFTU dated 10 August 2006, referring to matters already raised by the Committee.

Articles 2 and 5 of the Convention. Right of workers to establish and join organizations of their own choosing without previous authorization and to establish and join federations and confederations. In its previous comments, the Committee requested the Government to provide clarification on the effect given in practice to section 8 of Act No. 90-14 of 2 June 1990 respecting procedures for the exercise of the right to organize, and particularly on possible grounds for refusing the registration of trade union organizations and the channels of appeal available.

In its reply, the Government indicates that Act No. 90-14 does not establish any condition for establishing trade union organizations, except for being a worker or an employer. The Government adds that, in terms of form, the declaration of the establishment of a trade union organization merely involves making an application, to which the statutes formulated by the founding members, accompanied by the report of the constituent general assembly, have to be attached. With regard in particular to the provisions of section 8 of Act No. 90-14 referred to above, the Government indicates that an application for the establishment of an organization is lodged: (1) with the Ministry of Labour and Social Security in the case of a national organization of workers or employers; (2) at the headquarters of the wilaya where the organization is to operate at the level of the region or the wilaya; and (3) with the communal authorities when it is to operate at the communal or inter-communal level. The choice of the territorial scope of the trade union organization rests with the founder members, and the competent authority is only notified when the application has been submitted. The Government indicates that the period established for a response to the application for the establishment of an organization is 30 days. The organizations concerned may be requested to make corrections to the statutes of their constituent act. Once the corrections have been made, a receipt is issued for their registration.

In its previous observation, the Committee requested the Government to keep it informed of the final outcome of the question of the registration of the Algerian Confederation of Autonomous Trade Unions (CASA). In this respect, the Government refers to its communications to the Committee on Freedom of Association in Case No. 2153, with the indication that the above correspondence submitted for examination by the Committee on Freedom of Association cannot be considered a refusal to register the CASA, but rather an invitation to bring its statutes into conformity with the labour legislation. It also emphasizes that if the parties concerned had discerned in the administration's observations any refusal to authorize the establishment of the CASA, they would have taken the case to the courts, which they have not done. The Committee notes in this respect that the Committee on Freedom of Association requested the Government: (1) to amend without delay the legislative provisions preventing workers' organizations from forming federations and confederations of their own choosing, irrespective of the sector to which they belong (see sections 2 and 4 of Act No. 90-14); and (2) to consult the social partners without delay in order to remove all the difficulties which might arise in practice from the interpretation of certain legislative provisions on the formation of federations and confederations and particularly, in this case, which might hinder the recognition of the CASA (see Reports Nos. 336 and 340 of the Committee on Freedom of Association). *Recalling that the acquisition of legal personality by federations and confederations cannot be made subject to conditions such as to restrict the right to establish these organizations, the Committee urges the Government to keep it informed of the measures adopted in this respect and the outcome of the discussions held.*

Article 3. Exercise of the right to strike. In its previous comments, the Committee also requested the Government to limit the scope of Legislative Decree No. 92-03 of 30 September 1992 (section 1 of which, read together with sections 3, 4 and 5, defines as subversive acts offences directed, in particular, against the stability and normal functioning of institutions through any action intended to: (i) obstruct the operation of establishments providing public services; or (ii) impede traffic or freedom of movement in public places or thoroughfares, under penalty of severe sanctions, including imprisonment for up to 20 years), through the adoption of legislative measures or regulations to ensure that this text may not in any event be applied to workers who have exercised the right to strike peacefully. The Committee notes that, according to the Government, the above Decree does not constitute in any manner an obstacle to the exercise of the right to strike by workers, and that several strikes have been held without any effect in relation to this text. The Committee nevertheless reiterates that the very general wording of certain provisions involves a risk of infringing the right of workers' organizations to organize their activities and to formulate their programmes in defence of the interests of their members through strike action, among other means. ***The Committee therefore urges the Government to limit the scope of the Legislative Decree through the adoption of legislative measures or regulations guaranteeing that this text may not in any event be applied to workers who have exercised the right to strike peacefully.***

The Committee also requested the Government to amend section 43 of Act No. 90-02 of 6 February 1990, which bans strikes not only in essential services the interruption of which would endanger the life, personal safety or health of the population, but also where the strike is likely to give rise to a serious economic crisis, with collective disputes in such cases being subject to the conciliation and arbitration procedures provided for by the law. The Committee also requested the Government to amend section 48 of the same Act, which authorizes the Minister or the competent authority, where the strike persists or after the failure of mediation, to refer the dispute to the National Arbitration Commission, after consulting the employer and the workers' representatives. Noting that the Government's report does not contain information on this subject, the Committee wishes to emphasize once again that referral to arbitration to end a collective dispute is only acceptable if it is at the request of both parties and/or in the event of a strike in essential services in the strict sense of the term, or in the case of a strike the extent and duration of which are likely to give rise to a serious national crisis. ***The Committee urges the Government to indicate the measures adopted or envisaged to amend the legislation as indicated above so as to guarantee in full the right of workers' organizations to organize their activities and to formulate their programmes without interference by the public authorities, in accordance with Article 3.***

The Committee trusts that the Government will take the necessary measures to ensure that the above amendments are made to the legislation to bring it into conformity with the Convention. It requests the Government to provide the text of the legislation adopted or envisaged in this respect.

Angola

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1976)***

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, and the recent reply from the Government, which will be examined next year.

Moreover, the Committee requests the Government to communicate, in accordance with the regular reporting cycle and in time for the Committee's next session in November–December 2007, its observations on all the legislative issues and issues relating to the application of the Convention in practice mentioned in its previous observation in 2005 (see 2005 observation, 76th Session).

Antigua and Barbuda

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) ***(ratification: 1983)***

The Committee notes the Government's very brief report. The Committee regrets that once again, the Government failed to reply to the specific comments and questions concerning the application of the Convention made by the Committee during several years. ***The Committee trusts that the Government will endeavour to be more responsive to its specific questions in its next report.***

In its previous comments, the Committee had recalled the need to amend sections 19, 20, 21 and 22 of the Industrial Court Act, 1976, which permit the referral of a dispute to the court by the Minister or at the request of one party with the consequent effect of prohibiting any strike action, under penalty of imprisonment, and which permit injunctions against a legal strike when the national interest is threatened or affected, as well as the overly broad list of essential services in the Labour Code.

On the matter of essential services, the Committee notes the inclusion of the government printing office and the port authority in the list and considers that such services cannot be considered essential in the strict sense of the term. In this respect, the Committee would draw the Government's attention to paragraph 160 of its 1994 General Survey on freedom of association and collective bargaining wherein it states that, in order to avoid damages which are irreversible or out of

all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, the authorities could establish a system of minimum service in other services which are of public utility rather than impose an outright ban on strikes, which would be limited to essential services in the strict sense of the term. As concerns the Minister's power to refer disputes in cases of acute national crisis, the Committee notes that the power of the Minister to refer a dispute to the court under sections 19 and 21 of the Industrial Court Act would appear to apply to situations going beyond the notion of an acute national crisis. Under section 19(1), this authority of the Minister appears to be discretionary since, under section 21, this power may be used in the national interest which would appear to be broader than the strict notion of a specific situation of acute national crisis where the restrictions imposed must be for a limited period and only to the extent necessary to meet the requirements of the situation (see General Survey, op. cit., paragraph 152).

In light of the above, the Committee once again urges the Government to indicate in its next report the measures taken or envisaged to ensure that the power of the Minister to refer a dispute to binding arbitration resulting in a ban on strike action is restricted to strikes in essential services in the strict sense of the term, to public servants exercising authority in the name of the State or in case of an acute national crisis. It further requests the Government to indicate the measures taken or envisaged to ensure that a binding referral of a collective dispute to the court can only be made at the request of both parties, and not any one of the parties as appears to be the case in section 19(2).

Argentina

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the comments by the Central of Argentine Workers (CTA) dated May 2006, those by the International Confederation of Free Trade Unions (ICFTU) dated 12 July 2006 and those by the General Confederation of Labour of Argentina (CGT) dated 30 August 2006 (the gist of which is that the problems raised by the ICFTU are being dealt with or have been resolved). The Committee notes the Government's response to the ICFTU's observations.

1. *Determination of minimum services.* The Committee notes that in its observations, the CTA refers to the recent adoption of Decree No. 272/2006 regulating section 24 of Act No. 25877 on collective labour disputes. Specifically, the CTA objects that, by virtue of section 2(b) of the Decree, the Guarantees Commission, which establishes minimum services, and which comprises representatives of employers' and workers' organizations as well as independent members, may act only in an advisory capacity since the final decision as to essential minimum services lies with the Ministry of Labour when "the parties have come to no agreement" or "when the agreements are inadequate".

The Committee observes that the Committee on Freedom of Association has examined this matter (see 343rd Report of that Committee, November 2006, Case No. 2377) and has pointed out that although the new system is an improvement over the old one (in that the membership of the Guarantees Commission, which advises the administrative authority, includes representatives of employers' and workers' organizations and independent members), the final decision as to the minimum services still lies with the administrative authority. The Committee on Freedom of Association therefore asked the Government to provide information on the application in practice of the new provision and, more specifically, to indicate the number of cases in which the administrative authority has changed the terms of the Guarantees Commission's opinion regarding minimum services. ***The Committee has the same concerns and would appreciate receiving such information.***

2. *Other matters.* With regard to the ICFTU's observations, the Committee notes that, for the most part, they refer to matters that the Committee has been raising for many years and that concern certain restrictions on freedom of association arising from Act No. 23551 of 1988 and its regulatory decree, and to:

- the Government's refusal to grant the CTA "trade union status". The Committee notes that, according to the Government, since 1998 the CTA has had full official recognition and "trade union registration", and is awaiting a decision on an application for "trade union status" filed in August 2004. In view of the significant benefits enjoyed by workers' organizations that have "trade union status" (including the right to collective bargaining), the Committee regrets that so long a period has elapsed – more than two years according to the Government – without any decision from the administrative authority. ***The Committee urges the Government to take a decision without delay regarding the CTA's application for trade union status;***
- the 30-day suspension applied on 31 December 2004 to 50 school directors in the province of Neuquén who are members of the Association of Education Workers of Neuquén (ATEN) for participating in a strike. The Committee observes that this matter has been examined by the Committee on Freedom of Association;
- the assault of a member of the communications sector and pressure on workers to leave the union. The Committee notes that, according to the Government, the National Appeals Chamber upheld the lower court's decision to sanction the enterprise for discrimination against five union members;
- the dismissal of 168 pilots in the context of a collective dispute. The Committee notes that, according to the Government, the dismissals were cancelled and the unions concerned have concluded a new collective agreement.

The Committee also requests the Government to send information on the other matters raised by the Committee in its 2005 observation (76th Session), for examination in the context of the regular reporting cycle in 2007.

Australia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1973)

The Committee takes note of the discussion that took place at the Conference Committee on the Application of Standards in June 2006 and notes that in its conclusions, the Conference Committee requested the Government to provide a detailed report to this Committee, for examination, this year, on the provisions of the Work Choices Act and its impact both in law and in practice, on the Government's obligation to ensure respect for freedom of association. It further requested the Government to engage in full and frank consultations with the representative employers' and workers' organizations with respect to all the matters raised during the debate and to report back to this Committee in this regard.

The Committee notes that the report requested from the Government has not been received, nor has the Government replied to the extensive comments made by the Australian Council of Trade Unions (ACTU) in a communication dated 17 May 2006 with regard to the passage of the Work Choices Act and the National Tertiary Education Union (NTEU) in a communication dated 19 April 2006, as well as the comments made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 12 July 2006.

In a communication dated 29 November 2006, the Government of Australia explains the range of factors that significantly impeded its efforts to provide a report to the Committee. In particular, the Government refers to the constitutional challenge to the Work Choices Act, which was only concluded on 14 November 2006, when the High Court dismissed the challenge in its entirety. The Committee further notes the Government's indication that, in dismissing the challenge, the High Court made no findings concerning the merit of the Work Choices Act, but merely held that the Australian Government had the legal authority to enact the legislation.

The Committee notes the extensive legislative changes introduced at the federal and state levels pursuant to the amendment of the Workplace Relations Act 1996 (the WR Act) by the Workplace Relations Amendment (Work Choices) Act 2005 (the Work Choices Act).

Federal jurisdiction

Article 3 of the Convention. Right to strike. The Committee recalls that its previous comments concerned the conformity of several legislative provisions, including of the WR Act, to the Convention. In particular, the Committee had requested the Government to amend: (i) section 170MN of the WR Act which prohibited industrial action in support of multiple business agreements; the Committee notes, in this respect, that section 423(1)(b)(i) of the WR Act, as amended by the Work Choices Act, excludes such agreements from the procedure for initiating a bargaining period thereby preventing the staging of protected industrial action in relation to such agreements; (ii) section 187AA of the WR Act prohibiting industrial action in support of a claim for strike pay (now section 508 of the WR Act, as amended by the Work Choices Act); (iii) section 45D of the WR Act prohibiting secondary boycotts (now section 438 of the WR Act as amended); (iv) section 170MW of the WR Act which provided for the power of the Australian Industrial Relations Commission (AIRC) to terminate a bargaining period, and thus the ability to take protected industrial action, when the action was threatening to cause significant damage to the Australian economy or an important part of it (now section 430(3)(c)(ii) of the WR Act as amended); (v) section 30J of the Crimes Act, 1914, which prohibited industrial action threatening trade or commerce with other countries or among states; and (vi) section 30K of the Crimes Act, 1914, prohibiting boycotts resulting in the obstruction or hindrance of the performance of services by the Australian Government or the transport of goods or persons in international trade.

The Committee notes that, according to ACTU, not only have the Committee's previous comments not been addressed, but the Work Choices Act introduced additional prohibitions on industrial action. Thus, according to ACTU:

(i) the WR Act as amended by the Work Choices Act prevents the taking of lawful industrial action relative to "pattern bargaining", that is, negotiations seeking common wages or conditions of employment for two or more proposed collective agreements with different employers or even with different subsidiaries of the same employer-parent company (section 421 WR Act as amended). The Committee observes that under section 439 of the WR Act (as amended) industrial action in support of pattern bargaining is not protected action. The AIRC must not grant an order authorizing a strike ballot if the applicant is engaged in pattern bargaining (section 461(1)(c) WR Act as amended) and the Court may grant an injunction against industrial action in support of pattern bargaining (section 497 WR Act as amended).

(ii) section 436 of the WR Act as amended further narrows the range of matters which can be the subject of industrial action by providing that such action is not protected if it is taken in support of claims which include "prohibited content". The latter is defined in the Workplace Relations Regulations, 2006, as including a wide range of subjects that, to a large extent, constitute collective bargaining topics (see below under Convention No. 98). Moreover, section 356 of the WR Act as amended, allows the identification of prohibited content to be carried out through regulations in a non-exhaustive manner, and therefore does not prevent future exclusions from bargaining and therefore from industrial action, of an unlimited number of matters as determined by the Minister for Employment and Workplace Relations (the Minister).

(iii) Section 438 of the WR Act as amended, tightened the prohibition of industrial action taken in concert with other parties who are not protected (i.e. sympathy strikes) in that it is now mandatory for the AIRC to order that such action stop or if it has not yet occurred, that it not occur.

(iv) Section 430(3)(c)(ii) of the WR Act as amended, removes the discretion formerly held by the AIRC in respect of suspending or terminating a bargaining period in case of danger to the economy, and makes it mandatory to do so. Section 433(1)(d) and (2)(c) now makes provision for a third party who is affected by the industrial action to apply for the suspension or termination of the bargaining period, which must be granted if the AIRC is satisfied that the employer is adversely affected and economic loss is also caused to the applicant (that is, without any consideration, whatsoever, of the interests of the employees involved).

(v) Section 498 of the WR Act as amended enables the Minister to unilaterally issue a declaration terminating a bargaining period in circumstances including threatened economic damage, thereby preventing the taking of protected industrial action. The Committee further observes that section 500(a) provides for compulsory arbitration in this case with the decision being binding for up to five years under section 504(3).

The Committee also observes that to the extent that industrial action which is unprotected under the above provisions may also fall under the definition of “coercion and duress” in section 400(1) of the WR Act (which prohibits industrial action with intent to coerce another person to agree to a collective agreement), it may lead to heavy pecuniary penalties under section 407 of the WR Act.

The Committee once again recalls that strikes can be prohibited under the Convention only in essential services in the strict sense of the term, that is, those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, and for public servants exercising authority in the name of the State, in addition to the armed forces and police (1994 General Survey on freedom of association and collective bargaining, paragraphs 158 and 159). Thus, the prohibitions noted above with regard to multi-employer agreements, “pattern bargaining”, secondary boycotts and sympathy strikes, negotiations over “prohibited content” that should otherwise fall within possible subjects for collective bargaining, danger to the economy, etc., go beyond the restrictions which are permissible under the Convention.

The Committee once again requests the Government to indicate in its next report the measures taken or contemplated so as to amend the following provisions of the WR Act – as amended by the Work Choices Act – so as to bring them into conformity with the Convention: provisions which lift the protection of industrial action in support of multiple business agreements (section 423(1)(b)(i)), “pattern bargaining” (section 439); secondary boycotts and generally sympathy strikes (section 438), negotiations over “prohibited content” (sections 356 and 436 WR Act in connection with the Workplace Relations Regulations, 2006), strike pay (sections 508, WR Act); and provisions which prohibit industrial action in case of danger to the economy (sections 430, 433 and 498, WR Act) through the introduction of compulsory arbitration at the initiative of the Minister (section 500(a) and 504(3), WR Act). It also requests, once again, the Government to take measures to amend sections 30J and 30K of the Crimes Act, 1914, so as to bring them into full conformity with the Convention.

Building industry. In its previous comments, the Committee had taken note of the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2326 (338th Report, paragraphs 409–457), concerning several discrepancies between the Building and Construction Industry Improvement Act, 2005, and the Convention, and had requested the Government to indicate in its next report the measures taken or contemplated so as to bring this Act into conformity with the Convention.

The Committee once again requests the Government to indicate in its next report any measures taken or contemplated with a view to: (i) amending sections 36, 37 and 38 of the Building and Construction Industry Improvement Act, 2005, which refer to “unlawful industrial action” (implying not simply liability in tort vis-à-vis the employer, but a wider responsibility towards third parties and an outright prohibition of industrial action); (ii) amending sections 39, 40 and 48–50 of the Act so as to eliminate any excessive impediments, penalties and sanctions against industrial action in the building and construction industry; (iii) introducing sufficient safeguards into the Act so as to ensure that the functioning of the Australian Building and Construction (ABC) Commissioner and inspectors does not lead to interference in the internal affairs of trade unions – especially provisions on the possibility of lodging an appeal before the courts against the ABC Commissioner’s notices prior to the handing over of documents (sections 52, 53, 55, 56 and 59 of the Act); and (iv) amending section 52(6) of the Act which enables the ABC Commissioner to impose a penalty of six months’ imprisonment for failure to comply with a notice to produce documents or give information so as to ensure that penalties are proportional to the gravity of any offence.

A request on certain other points is being addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1973)

The Committee takes note of the discussion that took place at the Conference Committee on the Application of Standards in June 2006 and notes that, in its conclusions, the Conference Committee requested the Government to provide a detailed report to this Committee for examination this year on the provisions of the Work Choices Act and its impact,

both in law and in practice, on the Government's obligation to ensure respect for freedom of association. It further notes the Conference Committee's request to the Government to engage in full and frank consultations with the representative employers' and workers' organizations with respect to all the matters raised during the debate and to report back to this Committee in this regard.

The Committee observes that the report requested from the Government has not been received, nor has the Government replied to the extensive comments made by the Australian Council of Trade Unions (ACTU) in a communication dated 17 May 2006 with regard to the passage of the Work Choices Act and the National Tertiary Education Industry Union (NTEU) in a communication dated 19 April 2006, as well as the comments made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 12 July 2006. In a communication dated 29 November 2006, the Government of Australia explains the range of factors that significantly impeded its efforts to provide a report to the Committee. In particular, the Government refers to the constitutional challenge to the Work Choices Act, which was only concluded on 14 November 2006, when the High Court dismissed the challenge in its entirety. The Committee further notes the Government's indication that, in dismissing the challenge, the High Court made no findings concerning the merit of the Work Choices Act, but merely held that the Australian Government had the legal authority to enact the legislation.

The Committee notes the extensive legislative changes introduced at the federal and state levels pursuant to the amendment of the Workplace Relations Act, 1996 (the WR Act), by the Workplace Relations Amendment (Work Choices) Act, 2005 (the Work Choices Act). These amendments concern, in particular, collective bargaining and Australian workplace agreements (AWAs). The Committee recalls from previous comments that AWAs are agreements on the relationship between an employer and an employee, which are essentially individual in nature and put emphasis on direct employee-employer relations over collective negotiations with trade unions aimed at concluding collective agreements.

Federal jurisdiction. Articles 1 and 4 of the Convention. Protection against anti-union discrimination in the framework of collective bargaining. 1. *Exclusion from protection.* The Committee recalls that, in its previous comments, it had noted that section 170CC of the WR Act (now section 639 of the WR Act, as amended by the Work Choices Act) effectively excludes from protection against anti-union dismissals under section 170CK of the WR Act (now section 659 of the WR Act, as amended by the Work Choices Act), employees "in relation to whom the operation of the provisions causes or would cause substantial problems because of: (i) their particular conditions of employment; or (ii) the size or nature of the undertakings in which they are employed". ***Recalling that the Convention requires that all workers be protected from anti-union dismissals, the Committee once again requests the Government to provide information as to the particular classes of employees covered by this exclusion and to provide detailed information as to the manner in which this provision has been applied in practice.***

2. *Protection at the time of recruitment.* The Committee recalls that, in its previous comments, it had also addressed the need to amend sections 298L and 170WG(1) of the WR Act (now sections 793 and 400(5) respectively of the WR Act, as amended). These sections did not seem to afford adequate guarantees against anti-union discrimination to the extent that they allowed offers of employment to be conditional on the signing of an AWA ("AWA or nothing") without this being considered as duress by the courts. The Committee observes that section 400(6) of the WR Act, as amended by the Work Choices Act, now further strengthens the previous provisions by explicitly specifying that offering an "AWA or nothing" does not amount to duress. The Committee once again emphasizes that workers who might refuse to negotiate an AWA at the time of recruitment should be afforded legal protection against acts of anti-union discrimination relative to such refusal and emphasizes that the right of workers to join the organization of their own choosing, combined with the legitimate objective of determining their conditions of employment through collective bargaining, should be fully protected. ***It therefore requests the Government to indicate in its next report the measures taken or contemplated to repeal section 400(6) of the WR Act and to amend sections 793 and 400(5) so as to ensure that workers are adequately protected against any discrimination at the time of recruitment related to their refusal to sign an AWA.***

3. *Protection in the context of negotiations of multiple business agreements.* The Committee further recalls that its previous comments concerned the need to amend section 170LC(6) of the WR Act, which excluded workers who negotiated multiple business agreements from protection against anti-union dismissals if they undertook industrial action. The Committee notes that this section is not reproduced in the WR Act, as amended by the Work Choices Act. However, section 423(1)(b)(i) provides that a "bargaining period" cannot be initiated with regard to a multiple business agreement unless an employer – not a trade union – obtains authorization from the Employment Advocate in relation to making or varying such an agreement (section 332 of the WR Act, as amended). The Employment Advocate must not grant the authorization unless he or she is satisfied that it is in the public interest to do so (section 332(3)). The Committee notes that, in the absence of a bargaining period, industrial action is not protected (section 437 of the WR Act, as amended) and therefore workers continue not to be protected under the WR Act against acts of anti-union discrimination, in particular, dismissals, if they organize or participate in industrial action in support of multiple business agreements.

The Committee also takes note of the ACTU's comments, according to which the Work Choices Act introduces further restrictions concerning "pattern bargaining" (i.e. negotiations seeking common wages or conditions of employment for two or more proposed collective agreements with different employers or even different subsidiaries of the same parent company) by prohibiting industrial action in relation to this type of bargaining (section 439 of the WR Act, as amended)

and requiring the Australian Industrial Relations Commission (AIRC) to suspend or terminate the bargaining period where pattern bargaining is occurring, thereby preventing the taking of lawful, protected industrial action (sections 431(1)(b) and 437 of the WR Act, as amended).

The Committee once again recalls that action related to the negotiation of multiple business agreements and “pattern bargaining” represents legitimate trade union activity for which adequate protection should be afforded by the law. The Committee further emphasizes that the choice of the bargaining level should normally be made by the parties themselves who are in the best position to decide this matter (see 1994 General Survey on freedom of association and collective bargaining, paragraph 249). ***The Committee therefore requests the Government to indicate in its next report any measures taken or contemplated to amend sections 423 and 431 of the WR Act, as amended by the Work Choices Act, so as to ensure that workers are adequately protected against acts of anti-union discrimination, in particular, dismissal, for negotiating collective agreements at whatever level deemed appropriate by the parties.***

Articles 2 and 4. Protection against acts of interference in the framework of collective bargaining. In its previous comments, the Committee, recalling that section 170LJ(1)(a) of the WR Act (now section 328(a) of the WR Act, as amended) gave employers wide discretion in selecting a bargaining partner (as it enabled an employer to make an agreement with one or more organizations of employees where each organization had “at least one member” in the enterprise), had suggested the establishment of a mechanism to undertake the rapid and impartial examination of allegations of acts of interference in the context of the selection of a bargaining partner. ***The Committee once again requests the Government to provide information in its next report on whether such a mechanism exists or, if not, the measures taken or contemplated with a view to setting one up.***

Article 4. Measures to promote free and voluntary collective bargaining. 1. *Relationship between AWAs and collective agreements.* The Committee’s previous comments concerned the need to amend section 170VQ(6) of the WR Act, which gave prevalence to AWAs over collective agreements. The Committee recalls from its previous comments (prior to the adoption of the Work Choices Act) that an AWA did not operate to the exclusion of a collective agreement if the latter was already in operation and until its expiry unless the collective agreement expressly allowed a subsequent AWA to operate to its exclusion. At that time, the Committee had criticized the fact that a collective agreement that was subsequent to an AWA did not prevail over the AWA until the expiration of the AWA; in the Committee’s view, this prevented workers who wished to join a union later in their employment from profiting from any favourable provisions in a subsequently negotiated collective agreement. It also raised a special problem with regard to the possibility provided by the WR Act to offer an “AWA or nothing” to new employees who were thereby unable to benefit from the provisions of the collective agreement until the expiry of their AWA.

The Committee takes note of the ACTU’s comments, according to which the amendments introduced by the Work Choices Act give further primacy to AWAs over collective agreements. In particular: (i) section 348(2) of the WR Act now provides that a collective agreement has no effect while an AWA operates in relation to an employee, irrespective of whether the AWA was made before or after the collective agreement and irrespective of the period of operation of the collective agreement; (ii) the incentive for employers to use AWAs in order to reduce wages and conditions of employment has been substantially increased by the repeal of the requirement that an AWA should not disadvantage employees in comparison to the terms of an applicable award; the previously applicable “no disadvantage test” has been replaced with a requirement only that the agreement not exclude the Australian Fair Pay and Conditions Standard setting forth key minimum entitlements relating to pay, hours of work, annual and other types of leave (sections 171–173 of the WR Act); (iii) moreover, the award conditions which apply to existing (not new) employees can be displaced by specific provision in the AWA (section 354), so that acquired rights are not protected; (iv) in the case of new employees, an AWA substantially inferior to the collective agreement can be required as a condition of employment (“AWA or nothing”). According to the ACTU, the primacy given to AWAs under the Work Choices Act makes the purported ability of unions to bargain collectively on behalf of their members nugatory in any practical sense, given that individual AWAs are likely to expire on different dates and their permitted period of operation has been extended from three to five years (section 352 of the WR Act – this provision also concerns the permitted period of operation of collective agreements), meaning that there is never a time when all employees are in a position to bargain collectively.

The Committee considers that giving primacy to AWAs, which are individual agreements, over collective agreements, is contrary to *Article 4* of the Convention which calls for the encouragement and promotion of voluntary negotiations with a view to the adoption of collective agreements. The Committee further recalls that, according to the Collective Agreements Recommendation, 1951 (No. 91), employers and workers bound by a collective agreement should not be able to include in contracts of employment stipulations contrary to those contained in the collective agreement; such stipulations should be regarded as null and void and automatically replaced by the corresponding stipulation of the collective agreement, unless they are more favourable to the workers (Paragraph 3). ***The Committee therefore requests the Government to indicate in its next report the measures taken or contemplated to amend section 348(2) of the WR Act so as to ensure that AWAs may prevail over collective agreements only to the extent that they are more favourable to the workers.***

2. *Negotiations with non-unionized workers.* The Committee’s previous comments concerned the need to amend section 170LK(6)(b) of the WR Act, which allowed for negotiations to take place directly with non-unionized workers instead of representative trade unions in the enterprise. The Committee notes that Part 8, Division 2, of the WR Act, as

amended by the Work Choices Act, places on an equal footing various types of agreements, such as union collective agreements (section 328), AWAs (section 326) and “employee collective agreements” (section 327), the latter being agreements in writing with employees whose employment will be subject to the agreement in a single business. Furthermore, section 4 of the WR Act defines a “collective agreement” as either an “employee collective agreement” or a “union collective agreement”.

The Committee once again recalls that *Article 4* of the Convention requires the encouragement and promotion of voluntary negotiations between employers or employers’ organizations and workers’ organizations. ***It therefore once again requests the Government to take measures to ensure that employee collective agreements do not undermine workers’ organizations and their ability to conclude collective agreements, and to indicate in its next report the measures taken or contemplated with a view to ensuring that negotiations with non-unionized workers take place only where there is no representative trade union in the enterprise.***

3. *Authorization of multiple business agreements.* The Committee’s previous comments concerned the need to amend section 170LC(4) of the WR Act, which required the AIRC to refuse the certification of multiple business agreements unless certification was in the public interest. The Committee notes that, pursuant to its amendment by the Work Choices Act, the WR Act now enables the Employment Advocate – and no longer the AIRC – to authorize the making or varying of multiple business agreements as a condition for their entry into operation (sections 151(1)(h) and 347(3) of the WR Act). Whereas the AIRC is a quasi-judicial body, the Employment Advocate is part of the administration, appointed by the Governor-General, and subject to the directions of the Minister for Employment and Workplace Relations (the Minister) with which he or she “must” comply (section 152 of the WR Act). The Employment Advocate must not grant authorization to make or vary a multiple business agreement unless satisfied that it is in the public interest to do so, having regard to whether the matters could be dealt with more appropriately in a collective agreement other than a multiple business agreement and to any other matter specified in regulations (section 332(3) of the WR Act). Authorization can be granted only at the request of the employer (section 332); trade unions do not appear to be able to request authorization. Any employer who lodges an unauthorized agreement with the Employment Advocate incurs a heavy penalty (sections 343 and 407 of the WR Act). Moreover, regulations may set a procedure for applying for authorization to the Employment Advocate and the Employment Advocate “need not consider an application if it is not made in accordance with the procedure” (section 332(2) of the WR Act). Finally, multiple business agreements are identified not only as agreements relating to one or more single businesses, but also relating to one or more parts of a single business (section 331(1)(a)(ii) of the WR Act), thus obliging the parties to carry out fragmented negotiations within single businesses. Similar authorization requirements are set in relation to variations of multiple business agreements (section 376).

Furthermore, the Committee notes that, according to the ACTU, the additional exclusion of “pattern bargaining” from protected action introduced in the WR Act by the Work Choices Act (see above) prevents parallel bargaining on a multi-employer basis, or even on the basis of several subsidiaries of the same parent company, thereby forcing an even greater focus on the single business, even in cases where the business might be part of a larger group of enterprises with common ownership and management.

The Committee recalls that the level of collective bargaining should be decided by the parties themselves and not be imposed by law (see General Survey, op. cit., paragraph 249). It further observes that legislation, which makes the entry into force of collective agreements subject to prior approval by the administrative authority, at the latter’s discretion, is incompatible with the Convention and a violation of the principle of autonomy of the parties (see General Survey, op. cit., paragraph 251). ***The Committee therefore once again requests the Government to indicate in its next report the measures taken or contemplated to repeal or amend sections 151(1)(h), 152, 331(1)(a)(ii) and 332(3) of the WR Act so as to ensure that multiple business agreements are not subject to the requirement of prior authorization at the discretion of the Employment Advocate and that the determination of the bargaining level is left to the discretion of the parties and is not imposed by law or by decision of the administrative authority. The Committee also requests the Government to keep it informed of any regulations adopted in relation to this matter.***

4. *Restrictions on the content of collective bargaining.* The Committee’s previous comments concerned the need to amend section 187AA of the WR Act, which excluded negotiations over strike pay from the scope of collective bargaining. The Committee observes that section 507 of the WR Act, as amended by the Work Choices Act, prohibits payments for days off work due to industrial action. It also notes that, according to the ACTU, the WR Act now extends the list of subjects over which negotiations are excluded, by forbidding negotiations and the reaching of an agreement over “prohibited content”. The range of matters constituting “prohibited content” are to be specified in regulations (sections 436 and 356 of the WR Act). The Workplace Relations Regulations, 2006, specify in a non-exhaustive manner what is prohibited content: matters that do not pertain to the employment relationship; objectionable provisions, including provisions which require a person to encourage trade union membership or indicating support for such membership, or requiring or permitting payment of a bargaining services fee; payroll deduction systems for union dues; leave to attend training provided by a trade union; paid leave to attend union meetings; process for renegotiating the agreement on its expiry; right of entry to the premises for union officials; union representation rights in disputes procedures, unless specifically requested by the employee; restrictions on the use of contractors and labour hire; forgoing of annual leave other than in accordance with the Act; encouragement or discouragement of trade union membership; allowing of

industrial action; remedies for unfair dismissal; direct or indirect restrictions on AWAs; and discriminatory terms. In addition to prohibiting these matters from being negotiated, the WR Act, as amended by the Work Choices Act, also introduces a substantial financial penalty for a person who seeks to include prohibited content in an agreement, or who is reckless as to whether a term contains prohibited content (sections 365 and 407 of the WR Act). Moreover, by allowing for the identification of prohibited content to be carried out through regulations in a non-exhaustive manner, the law allows for the exclusion from bargaining in the future of an unlimited number of matters as determined by the Minister. Finally, according to the ACTU, the prohibition of pattern bargaining noted above constitutes an additional restriction on the content of collective bargaining (common claims pursued against more than one business).

The Committee observes that the issues listed above as constituting “prohibited content” represent to a large extent the type of matters that have traditionally been subjects for collective bargaining. As a general rule, negotiation over such matters should be left to the discretion of the parties. In this respect, the Committee draws the Government’s attention to its General Survey on freedom of association, 1994, where it has indicated that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention and the free and voluntary nature of collective bargaining. In the event of doubt as to the matters falling within the purview of collective bargaining, tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining could be a particularly appropriate method for resolving such difficulties (see General Survey, op. cit., paragraph 250). ***The Committee requests the Government to consider tripartite discussions for the preparation of collective bargaining guidelines and to indicate in its next report any measures taken or contemplated to amend the Workplace Relations Regulations, 2006, and to ensure that any “prohibited content” of collective agreements is in conformity with the principle of the free and voluntary nature of collective bargaining enshrined in Article 4 of the Convention.***

5. *Greenfields agreements.* The Committee’s previous comments concerned the need to amend section 170LT(10) of the WR Act, which excessively restricted the opportunity for workers in a new business to choose their bargaining agent by enabling the employer to pre-select a bargaining partner prior to the employment of any persons in the new business. The Committee now notes that section 352(1)(a) of the WR Act, as amended by the Work Choices Act, reduces the period of operation of greenfields agreements from three years to one.

The Committee also notes however that, according to the ACTU, pursuant to its amendment, the WR Act has removed the requirement for an agreement to be made with a trade union, thus enabling the employer to unilaterally determine the terms and conditions of employment through an “employer greenfields agreement” (see section 330 of the WR Act). Moreover, the WR Act has also extended the scope of “greenfields agreements” beyond the establishment of a new business, project or undertaking to cover any new activity proposed to be carried out by a government authority, a body in which a government has a controlling interest or which has been established by law for a public purpose. The law has also been clarified to specify that the reference to a new project which is of the same nature as the employer’s existing business activities is included in the definition of “greenfield” (section 323 of the WR Act; Explanatory Memorandum, paragraphs 798–801). The effect of these changes, according to the ACTU, is that employees on each of an employer’s construction sites, for example, could be employed under a unilateral employer agreement for 12 months, during which time AWAs could be introduced to ensure that collective bargaining never became a practical reality.

The Committee observes that the inclusion of employer greenfields agreements, to the total exclusion of any attempts at good-faith bargaining, within the context of a much enlarged definition of new business to further include the very broad concept of “new activity”, coupled with the greater primacy of AWAs, would appear to seriously hinder the possibilities of workers in such circumstances from negotiating their terms and conditions of employment. ***The Committee therefore requests the Government once again to indicate in its next report any measures taken or contemplated to amend the relevant provisions of the WR Act so as to ensure that the choice of bargaining agent, even in new businesses, may be made by the workers themselves and that they will not be prohibited from negotiating their terms and conditions of employment in the first year of their service for the employer even if an employer greenfields agreement has been registered.***

6. *Building industry.* The Committee recalls that in its previous comments it took note of the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2326 (338th Report, paragraphs 409–457) concerning several discrepancies between the Building and Construction Industry Improvement Act, 2005, and the Convention. These discrepancies concern similar issues to those noted above with regard to the WR Act.

The Committee once again requests the Government to indicate in its next report the measures taken or contemplated so as to bring the Building and Construction Industry Improvement Act, 2005, into conformity with the Convention, in particular with regard to the following points: (i) the revision of section 64 of the Act so as to ensure that the determination of the bargaining level is left to the discretion of the parties and is not imposed by law, by decision of the administrative authority; (ii) the promotion of collective bargaining, especially by ensuring that there are no financial penalties or incentives linked to undue restrictions of collective bargaining (sections 27 and 28 of the Act authorize the Minister to deny Commonwealth funding to contractors bound by a collective agreement that, although lawful, does not meet the requirements of a building code; the latter: (i) excludes a wide range of matters from the scope of collective bargaining; and (ii) contains financial incentives to ensure that AWAs may override collective agreements).

7. *Higher education sector.* In a previous direct request, the Committee addressed the need to amend section 33-5 of the Higher Education Support Act, 2003, and the Higher Education Workplace Relations Requirements (HEWRRs) which raise obstacles to collective bargaining similar to those raised by the Workplace Relations Act, 1996 (the WR Act), by: (1) providing economic incentives to ensure that collective agreements contain exceptions in favour of AWAs; and (2) allowing for negotiations with non-unionized workers even where representative trade unions exist in the unit.

The Committee notes the detailed comments raised by the NTEU in this regard. In particular, the NTEU indicates that the Higher Education Support Act was amended in November 2005 to give effect to the HEWRRs, which are linked to valuable additional government funding. According to the NTEU, the HEWRRs now mandate that all university institutions must offer AWAs to all staff. In addition, the Government has insisted that all institutions insert the following clause into university collective agreements: “the present agreement expressly allows for AWAs to operate to the exclusion of the certified agreement or prevail over the certified agreement to the extent of any inconsistency”. The NTEU provides examples of the impact the recent legislative changes have had on collective bargaining in higher education, including significant delays in being able to even enter into negotiations upon the expiration of a collective agreement. The NTEU concludes that the Government has been seriously hindering collective bargaining as a process for determining terms and conditions of employment.

The Committee regrets that the Government has not replied to the comments made by the NTEU in respect of the application of the Convention, and in particular Article 4, to those in higher education. It requests the Government to provide a detailed reply in this respect in its next report. It further requests once again the Government to indicate the measures taken or contemplated so as to bring the above instruments relating to higher education into conformity with the provisions of the Convention and to ensure that AWAs are not used to impede the collective bargaining process.

8. *Discussion at the Conference Committee.* The Committee notes the comments made by the Government representative before the Conference Committee according to which:

The Committee of Experts had chosen not to respond to the argument presented by the Government to the Committee at its 2005 session, concerning the appropriate interpretation of Convention No. 98. The point at issue was the view of the Committee of Experts that Article 4 of the Convention imposed an unqualified obligation to promote collective bargaining, and excluded the possibility of any other form of bargaining. Australia facilitated collective bargaining, but believed that parties should be permitted to pursue other forms of bargaining if they freely chose to do so. ... Article 4 required measures for the encouragement and promotion of collective bargaining to be taken “where necessary”, and that such measures were to be “appropriate to national conditions”. ... collective bargaining had been the norm in Australia for more than a century ... as collective bargaining had been the historical norm in Australia, the availability of individual agreements as a choice among several industrial instruments could not be reasonably considered to contravene Convention No. 98. It was not appropriate to prohibit the availability of other forms of bargaining. Accordingly, in the language of Article 4, the legislation that was the subject of the Committee’s comments was consistent with Australian “national conditions” and Australia was not in breach of that provision.

The Committee observes, as it has already done on numerous occasions in the past, that a large number of provisions of the WR Act have the effect of preventing the negotiating parties from exercising a free choice between different forms of bargaining. The Committee is particularly concerned by the primacy accorded to individual contracts (AWAs) over collective agreements in the WR Act, the obstacles contained in this Act with regard to bargaining at any level above that of the workplace, and the express prohibition of bargaining over a very wide range of matters which normally constitute common topics in free and voluntary negotiations, as well as the heavy penalties incurred in case the parties try to negotiate such subjects. The Committee observes that the above measures can in no way be seen as measures to encourage and promote collective bargaining as they deny the parties any choice and restrict their bargaining autonomy and free will. In the Committee’s view, although the expressions “where necessary” and subject to “national conditions” found in Article 4 of the Convention allow for a wide range of different national practices in the implementation of measures for the encouragement and promotion of collective bargaining, they do not authorize in any way the introduction of disincentives, obstacles to and downright prohibitions of negotiations which amount to a negation of the free and voluntary nature of collective bargaining enshrined in Article 4 of the Convention. ***Recalling, as it has above, that tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining are a particularly appropriate method to resolve any difficulties in the implementation of the Convention, the Committee requests the Government to indicate in its next report any measures taken or contemplated so as to give effect to the request of the Conference Committee for full and frank consultations with the representative employers’ and workers’ organizations with respect to all the matters raised above.***

The Committee further requests the Government to provide, in its next report, its comments or observations in respect of the May and October 2006 communications of the ACTU, the NTEU communication of April 2006 and the ICFTU communication of July 2006.

***Statistical data.* The Committee requests the Government to provide with its next report detailed statistical data on the impact of the Workplace Relations Act, and its most recent amendments, upon the number and coverage of collective agreements in the country.**

A request on another point is being addressed directly to the Government.

Azerbaijan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1992)

The Committee notes the comments made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 10 August 2006 concerning the application of the Convention. The Committee notes that the ICFTU alleges difficulties in forming trade unions in multinational enterprises, as well as in enterprises in the communication and oil sectors, the ban on strikes in public transport sector and the legislative restriction on all types of political activities by trade unions. *The Committee requests the Government to provide with its next report its observations on the comments thereon.*

The Committee will examine other matters raised in its previous direct request (see 2005 direct request, 76th Session) in respect of the application of the Convention during the regular reporting cycle of 2007.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1992)

1. *Comments made by the International Confederation of Free Trade Unions (ICFTU).* The Committee notes the comments made by the ICFTU in a communication dated 10 August 2006 concerning: (1) the fact that, despite the law, an effective system of collective bargaining between unions and enterprise managements has not yet been established and that unions rarely participate in determining wage levels; and (2) serious obstacles to forming trade unions have been reported at joint ventures operating in the communication sector and in the oil sector. *The Committee requests the Government to provide its observations on the comments made by the ICFTU.*

2. The Committee will examine other points raised in its 2005 direct request next year in the framework of the regular examination of the Government's reports.

Bahamas

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1976)

The Committee notes the comments on the application of the Convention submitted by the International Confederation of Free Trade Unions (ICFTU) on 10 August 2006, which refer to the refusal of collective bargaining rights to the fire brigade and prison guards; the requirement for a trade union to represent a majority of workers in a unit to be recognized for bargaining purposes; and the fact that an employer may after 12 months apply for a union's recognition to be revoked. *The Committee requests the Government to submit its observations thereon.*

The Committee will examine the questions raised in its 2005 comment (see 2005 direct request, 76th Session) under the regular reporting cycle in 2007.

Bangladesh

Right of Association (Agriculture) Convention, 1921 (No. 11) (ratification: 1972)

The Committee takes note of the Government's report.

In its previous comments, the Committee recalled that the provisions of the Industrial Relations Ordinance (IRO), 1969, applied only to agricultural workers employed in the organized sectors, namely agricultural farms, such as the tea gardens, sugar mills and other agricultural farms run on a commercial basis, and that agricultural workers including self-employed persons, were not covered by the IRO.

The Committee emphasized that, under *Article 1 of the Convention*, all those engaged in agriculture should enjoy the same rights of association and combination as industrial workers, which is particularly important in countries where a large proportion of the workforce is engaged in agriculture, and that ratifying Members undertake to "repeal any statutory or other provision restricting such rights in the case of those engaged in agriculture".

The Committee takes note that the Government indicates that the existing law does not prohibit individual agricultural workers from forming associations. Presently, there are now associations of agriculture workers, boatmen, fishermen, handloom and textile workers in the country. Even non-farm agricultural workers organize themselves and apply for getting registered under the IRO, and they are then given such registration. Therefore, the Government does not feel it necessary to modify the existing legal provisions in this regard.

The Committee urges the Government to take the necessary measures to ensure that all those engaged in agriculture – including those not employed in the organized sector – enjoy the same rights of association and combination as industrial workers and requests the Government to provide concrete information on the number of existing trade unions in the agricultural sector and the number of collective agreements concluded.

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1972)

The Committee takes note of the Government's reply to the comments made by the International Confederation of Free Trade Unions (ICFTU) on 31 August 2005. The Committee recalls that the ICFTU's comments referred to questions already raised and, in particular, concerned: (1) the police arrest of 350 women trade unionists in 2004, including the general secretary of the Jatio Sramik League (JSL) Women's Committee, when they were taking part in activities to mark Women's Day organized by the ICFTU-affiliated JSL (they were released on bail on 25 April and were due to face possible charges in court on 5 May 2005, although the nature of those charges was unclear); and (2) the Registrar's refusal to register the Immaculate (Pvt.) Ltd Sramik Union (a case which was the object of conclusions and recommendations by the Committee on Freedom of Association (Case No. 2371, 340th Report, paragraphs 35–41)).

Concerning the police arrest of 350 women trade unionists, the Committee takes note of the Government's reply that it has no comment on this incident and that the law will take its own course. The Committee wishes to stress once again that the arrest and detention, even for short periods, of trade union leaders and members engaged in legitimate trade union activities, without any charges being brought and without a warrant, constitute a grave violation of the principle of freedom of association. Moreover, the Committee emphasizes that freedom of assembly constitutes a fundamental aspect of trade union rights and the authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof, provided that the exercise of these rights does not cause a serious and imminent threat to public order (see 1994 General Survey on freedom of association and collective bargaining, paragraphs 31 and 35). ***The Committee requests the Government to communicate detailed observations indicating the grounds on which 350 women trade unionists, including the general secretary of the JSL's Women's Committee, Shamsur Nahar Bhuiyan, were arrested in 2004, whether charges have been brought against them, and whether their case is being heard in front of a judicial authority. The Committee requests the Government to provide a copy of all judicial decisions taken in this matter.***

In respect to the ICFTU's comments relating to the Registrar's refusal to register the Immaculate (Pvt.) Ltd Sramik Union, the Committee takes note of the Government's reply stating that the matter is currently in front of the court. The Committee notes that the procedure for the registration of this union started in 2003. ***While regretting the delay, the Committee urges the Government to report on the measures taken to ensure the prompt registration of the Immaculate (Pvt.) Ltd Sramik Union. Furthermore, the Committee requests the Government to send a copy of the judicial decisions once adopted.***

Lastly, the Committee takes note of the observations of the ICFTU dated 12 July 2006, which mainly concern legislative issues raised in the previous observations of the Committee and underline recent problems regarding the application of Convention No. 87 in the garment and textile industries. In particular, the ICFTU alleges the harassment of unions by the national intelligence authorities, police violence against protesting workers, arrests of trade unionists, as well as the difficulty in establishing trade unions in the ship recycling industry.

The Committee requests the Government to transmit its observations on all the comments made by the ICFTU as well as on the other issues raised by the Committee (see 2005 observation, 76th Session) for examination during the regular reporting cycle in 2007.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1972)

The Committee takes note of the Government's report. It notes that it does not contain all the information requested, despite the fact that the Conference Committee, after noting several discrepancies between the Convention and national law, had requested the Government, in June 2006, to send information on an urgent basis in its next report concerning workers in export processing zones (EPZs) who, for more than 20 years, have not enjoyed the rights set out in the Convention.

The Committee takes note of the discussion which took place at the Conference Committee in 2006, as well as the observations received from the International Confederation of Free Trade Unions (ICFTU), in a communication dated 12 July 2006. The latter, while mainly concerning legislative issues raised in the previous observations of the Committee, underlines serious problems regarding the application of the provisions of the Convention in practice, in particular in the garment and textile industries, including harassment and anti-union discrimination. Furthermore, the Committee notes the Government's reply of 18 January 2006 to the comments made by the ICFTU on 31 August 2005. The Committee notes that the Government limits itself to referring to the legal provisions prohibiting harassment and acts of anti-union discrimination and establishing imprisonment or fines in cases of infringement; according to the Government, the application of the Convention is not barred in the garment and ship-recycling industries. ***The Committee requests the Government to send its additional comments regarding the ICFTU's observations contained in its communication dated 12 July 2006, indicating also the complaints submitted to the authorities in the last two years for anti-union practices.***

1. *Trade union rights in export processing zones (EPZs).* In its previous comments, the Committee had noted the 2005 comments of the ICFTU regarding restrictions on the right to organize in the EPZs. In particular, the ICFTU stated

that the new legislation provides that in order to form an association entitled to elect representatives who have the power to negotiate and sign collective agreements in any industrial unit, at least 30 per cent of the eligible workers of that unit must make an application to this effect. It will also have to hold a referendum to ascertain support for the association in which over 50 per cent of the total workforce must participate and over 50 per cent of the votes cast must be in favour of the establishment of a workers' association. The Committee notes the Government response to these comments stating that workers' associations are allowed to form under the EPZ Worker Association and Industrial Relations Act of 2004. The Committee recalls however the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2327 (see 337th Report, paragraphs 183–213) relating to important restrictions of the trade union rights of workers in the EPZ Workers' Association and Industrial Relations Act 2004 and observes that it requested the Government to modify this Act. The Committee also observes that the ICFTU has pointed out that workers made numerous reports of employer interference or irregularities in elections for workers' committees overseen by the Bangladesh Export Processing Zones Authority (BEPZA), and that discrimination against leaders of Active Worker Representation and Welfare Committees (WRWCs) was reported, and a significant number of these leaders and activist members were unfairly terminated with permission from the BEPZA. The Committee recalls that the Conference Committee had urged the Government, in consultation with the social partners, to take the necessary measures to ensure that these workers benefited in full from the rights laid down in the Convention. ***The Committee requests the Government to take all necessary measures to eliminate the obstacles to the exercise of trade union rights in law and in practice in EPZs. The Committee asks the Government to keep it informed of all measures taken in this regard, and to submit statistics on the number of complaints of anti-union discrimination as well as the number of collective agreements concluded in EPZs.***

2. *Lack of legislative protection against acts of interference.* The Committee notes with regret that the Government repeats, at the Conference Committee, in its last report and in its comments concerning the ICFTU's communication, its previous statement about this issue and, particularly, that sufficient protection is ensured under the general provisions of the Industrial Relations Ordinance of 1969 (IRO), relating to trade union rights and freedom of association. The Government adds that protection against interference will be strengthened in the new Labour Code which has already been passed by the Parliament. The Committee recalled that *Article 2 of the Convention* requires the prohibition of acts of interference by organizations of workers and employers (or their agents) in each other's affairs, designed in particular 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. ***The Committee once again requests the Government to adopt specific measures, coupled with effective and sufficiently dissuasive sanctions, against acts of interference and to keep it informed in this respect.***

3. *Legal requirements to collective bargaining.* In its previous comments, the Committee had asked the Government to lower the percentage requirement, which is 30 per cent, for registration of a trade union and the requirement to have one-third of employees as its members in order to be able to negotiate at the enterprise level (see sections 7(2) and 22 of the IRO). The Committee notes that the Government reiterates its previous statement to the effect that these requirements are justified in order to limit the multiplicity of trade unions, that they strengthen trade unions, and that they are unanimously agreed upon by the social partners. The Committee was bound to point out once again that these requirements may impair and make difficult the development of free and voluntary collective bargaining and that where, under a system for nominating an exclusive bargaining agent, there is no union representing the required percentage to be so designated, collective bargaining rights should be granted to the existing unions, at least on behalf of their own members. The Committee noted the Government's statement, reiterated in the Government's report, according to which the existing shortcomings (if any) will be removed through the provisions laid down in the future labour code. The Committee notes however with regret that, at the Conference Committee, the Government representative of Bangladesh maintained the position that the IRO 30 per cent requirement does not contravene the intent of the provisions of the Convention or the rights of workers to form trade unions as this requirement's aim is to ensure broader and more representative workers' bodies, to maintain the unity of the workers in the establishment and to promote effective representation of the workers. ***The Committee requests the Government to lower the percentage requirements set for registration of a trade union and for the recognition of a collective bargaining agent and to keep it informed in this respect.***

4. *Practice of determining wage rates and other conditions of employment in the public sector by means of government-appointed tripartite wages commissions (section 3 of Act No. X of 1974).* In its previous comments, the Committee had requested the Government to amend the legislation and to modify the practice of determining wage rates and other conditions of employment in the public sector by means of government-appointed tripartite wages commissions. The Committee notes the statement of the Government according to which tripartism is the most reasonable way of determining wages, particularly in the less viable industries, as otherwise there will be chaos for the Government as employer; the Committee notes that in its report, the Government reiterates that the collective bargaining agent at the enterprise or sector level has the right to bargain with their employer (and this usually happens in practice) for the effective implementation of matters settled by the wages commission; the present system safeguards the interests of workers in less viable industries and achieves a fair and equitable wage structure. The Committee once again recalls that, in line with the Convention, free and voluntary collective bargaining should be conducted between directly interested

workers' organizations and employers or their organizations, which should be able to appoint freely their negotiating representatives. *The Committee requests once again the Government to amend the legislation and to modify the present practice in order to bring it into conformity with the Convention.*

5. *Workers excluded from collective bargaining.* The Committee notes from the ICFTU's comments that, being deprived of the right to organize, workers in the public sector and state enterprises with the exception of railway, postal and telecommunication services cannot exercise the right to collective bargaining through trade unions.

6. The Committee notes that it has been commenting for a number of years on the need to finalize the draft Labour Code. The Committee notes that the Government stated once again at the Conference Committee and in its comments to the ICFTU's observations, that the suggestions received from different stakeholders on the draft Labour Code have been reviewed by a tripartite committee, and that the Code is finalized. The Committee notes that in its report, the Government indicates that the Labour Code has recently been passed by the Parliament and that it believes that the Committee's observations are duly reflected in the legislation. *The Committee urges the Government to ensure that the above comments are duly taken into consideration and hopes that they have been taken into account in the draft Labour Code. The Committee requests the Government to keep it informed of any progress made in this respect. The Committee recalls that the technical assistance of the Office is at the Government's disposal.*

Barbados

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1967)

The Committee notes the Government's report.

The Committee recalls that in its previous comments it had advised the Government to amend section 4 of the Better Security Act, 1920, according to which, any person who wilfully broke a contract of service or hiring, knowing that this could endanger real or personal property, was liable to a fine or up to three months' imprisonment, so as to eliminate the possibility of invoking it in case of future strikes, with the possible exception of those in essential services in the strict sense of the term. The Committee once again notes the Government's indication that this provision has never been invoked in the context of strike action. *Recalling that the Government has been indicating its intention to amend the Better Security Act since 1984, the Committee strongly encourages the Government to make every effort to take the necessary action in order to amend the Act in the very near future and requests the Government to keep it informed in this respect.*

As concerns the Committee's previous request to provide information on developments in the process of reviewing legislation regarding trade union recognition, the Committee notes the lack of progress in this respect and hopes that the process which began in 1998 would soon result in adoption of a new legislation. The Committee requests the Government to keep it informed in this respect.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1967)

The Committee notes the report of the Government.

Article 1 of the Convention. Protection against acts of anti-union discrimination. The Committee had previously asked the Government to indicate the legislative provisions that provide for protection against acts of anti-union discrimination, including the applicable sanctions. The Committee takes note of the Government's statement that there have been no new measures taken in this regard, as well as the comment of the Barbados Workers' Union confirming that there have been no new developments respecting this matter. In these circumstances, the Committee recalls that *Article 1* of the Convention guarantees workers adequate protection against acts of anti-union discrimination, in taking up employment and throughout the course of employment, including at the time of termination, and covers all measures of anti-union discrimination (dismissals, demotions, transfers and other prejudicial acts). The Committee considers, moreover, that legislation prohibiting acts of discrimination is inadequate if not coupled with effective, expeditious procedures and sufficiently dissuasive sanctions to ensure their application (see General Survey of 1994 on freedom of association and collective bargaining, paragraphs 223–224). *In this connection, the Committee requests the Government to take the necessary measures to ensure that its legislation provides adequate protection against acts of anti-union discrimination.*

Belarus

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee notes the information contained in the Government's reports, the conclusions of the Committee on Freedom of Association in its review of the measures taken by the Government to implement the recommendations made by the Commission of Inquiry (341st Report, approved by the Governing Body at its 295th Session), including the report

of the mission carried out in Belarus in January 2006 in response to the requests made by the Conference Committee on the Application of Standards in June 2005, and the discussion that took place in the Conference Committee on the Application of Standards in June 2006. The Committee further notes the comments made by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention in law and in practice. Finally, the Committee notes from the Government's report that consultations relating to the recommendations of the Commission of Inquiry were held in Geneva in October 2006 between a high-level delegation from Belarus (including the Deputy Prime Minister) and officials of the ILO (including the Executive Director for Fundamental Principles and Rights at Work, the Director and Deputy Director of the Standards Department) and representatives from the International Confederation of Free Trade Unions (ICFTU) and the International Organisation of Employers (IOE).

The Committee recalls that all of its outstanding comments have raised issues directly relating to the recommendations of the Commission of Inquiry. It further observes the conclusions of the Conference Committee wherein it deplored the fact that nothing the Government had said demonstrated an understanding of the gravity of the situation investigated by the Commission of Inquiry or the necessity of rapid action to redress the effects of these severe violations of the most basic elements of the right to organize.

Article 2 of the Convention. The Committee recalls that in its previous comments it had urged the Government to take the necessary measures to amend Presidential Decree No. 2 on some measures for the regulation of activities of political parties, trade unions and other public associations and its accompanying rules and regulations, as concerns the legal address requirement and the minimum membership requirement of 10 per cent of workers at enterprise level for enterprise trade unions, and to disband the Republican Registration Commission, so as to bring the Decree and its application into conformity with the provisions of the Convention.

The Committee notes with interest that, on 6 October 2006, the President of the Republic of Belarus signed into force Presidential Decree No. 605 on certain issues of state registration of public associations and their unions (confederations), which abolishes the Republican Registration Commission. It further notes that responsibility for registration now lies with the Ministry of Justice, Departments of Justice of the regional executive councils and the Minsk City Executive Committee. The Committee trusts that the process of registration before such bodies is a mere formality and that the manner in which these bodies carry out their duties does not amount, in practice, to a requirement of previous authorization contrary to *Article 2* of the Convention. ***The Committee therefore requests the Government to keep it informed of the manner in which registration is carried out by these authorities, as well as any practical obstacles noted in relation to the right of workers to form and join organizations of their own choosing.***

The Committee further notes that Presidential Decree No. 605 refers to the preparation by the Council of Ministers of a draft law aimed at implementing the provisions of the Decree. In particular, the Government has referred in its reports to the preparation of a conceptual framework for a draft law on trade unions. This conceptual framework refers to the possibility of establishing two types of trade unions, those with legal personality and those without. The requirement of obtaining a legal address and the 10 per cent minimum membership requirement would not have to be fulfilled by trade unions without legal personality. According to the Government, drafting of this law and its submission is planned for 2007. The Committee recalls in this regard that, in its previous comments under Convention No. 98, it had noted that trade union representatives had been invited from both the Federation of Trade Unions of Belarus (FPB) and the Congress of Democratic Trade Unions (CDTU) to participate in an expert advisory group, the Council for the Improvement of Legislation in Social/Labour Spheres created to consider the following questions: what form of contract should be used for workers in Belarus and conceptual approaches for improving the Law on Trade Unions. The Committee had noted at the time comments made by the CDTU with respect to a number of proposed amendments to the Law on Trade Unions, which it considered would lead to the dissolution of independent trade unions and the establishment of a state-controlled trade union monopoly. ***The Committee expresses the firm hope that the conceptual framework and the future proposed Bill on trade unions will be further developed in full consultation with all the trade unions concerned and that the final Law will be in full conformity with the provisions of the Convention.***

While noting that the Government now proposes the elimination of the above two obstacles to trade union registration for unions without legal personality, which would simply be placed in the register, the practical distinction in Belarus between trade unions with and those without legal personality is not sufficiently clear to the Committee. The Committee recalls that, when legislation makes the acquisition of legal personality a prerequisite for the existence and functioning of organizations, the conditions for acquiring legal personality must not be such that they amount to a de facto requirement for previous authorization to establish an organization, which would be tantamount to calling into question the application of *Article 2* (see 1994 General Survey on freedom of association and collective bargaining, paragraph 76). ***The Committee therefore requests the Government to provide full details on the envisaged distinction between unions with legal personality and those without, as well as on the impact that this distinction would have upon the functioning of trade unions.***

The Committee further notes with deep concern from the conceptual framework that the Government is envisaging an approach in the draft law on trade unions to provide that, where a trade union or a primary-level organization established at an enterprise represents 75 per cent of the workers at the enterprise and has already signed a collective agreement with the employer, no other primary-level organization shall be included in the register. The Committee recalls that, at present, primary-level organizations (unions created at the enterprise level by a higher level trade union

organization in accordance with the by-laws of that organization) may be established without submitting a legal address or meeting a minimum membership requirement other than that stipulated in the higher level organization. The new approach being introduced is likely to have a serious impact not only on the existence of these primary-level organizations, but also on the ultimate existence of their corresponding republican-level organization, giving rise to a de facto monopoly of workers' representation. ***The Committee therefore urges the Government to abandon this approach and to ensure that the new law on trade unions will fully and truly ensure freedom of association and the rights of all workers to form and join the organization of their own choosing, whether through the traditional primary-level organizations or enterprise level unions.***

In addition, the Committee notes that the conceptual framework refers to the determination of representative capacity of trade unions which will further enable those unions to acquire additional rights in respect of collective bargaining, control over observance of labour legislation, social protection, housing relations, environmental protection, receiving and disseminating information, participation in decision-making and protection of labour rights, as well as facilities, including the free use of premises, equipment, means of transportation and communication necessary for their activities and transfer of buildings, etc., for the organization of leisure, cultural, educational and recreational activities. The Committee considers that the extent of such privileges to representative unions could unduly influence the choice of organization by workers and compromise the right of workers to establish and join organizations of their own choosing (see 1994 General Survey, paragraphs 98 and 104). The Committee further considers that the granting of such extensive privileges to representative unions combined with the uncertainty around the status that may be obtained by unions without legal personality could give rise to undue influence on the choice made by workers of the organization they wish to join. ***The Committee therefore requests the Government to ensure that the privileges provided to representative trade unions do not give them an unfair advantage over other trade unions such as to render the right to form and join organizations of one's own choosing meaningless.***

The Committee requests the Government to transmit a copy of the draft trade union law as soon as it has been finalized so that it may assess its conformity with the Convention.

Finally, the Committee recalls from the conclusions of the Committee on Freedom of Association that no progress had been made in respect of the Commission's recommendations to register the primary-level organizations that were the subject of the complaint. In its previous comments under Convention No. 98, the Committee had further noted from the 339th Report of the Committee on Freedom of Association with concern that the spillover of non-registration of these primary organizations had led to the denial of registration of three regional organizations of the Belarusian Free Trade Union (BFTU) (organizations in Mogilev, Baranovich and Novopolotsk-Polotsk) and had impacted upon their collective bargaining rights. Now, the Committee must further note with concern that the Radio and Electronic Workers' Union (REWU) had suffered additional refusals to register its primary-level organizations (see 341st Report, paragraph 49). ***The Committee therefore expresses the firm hope that the Government will take all necessary measures for the immediate re-registration of these organizations both at the primary and the regional level so that these workers may exercise their right to form and join organizations of their own choosing without previous authorization.***

Article 3 of the Convention. The Committee recalls that, in its previous comments, it had urged the Government to take the necessary measures to amend the Law on Mass Activities (as well as Decree No. 11 if it had not yet been repealed), so as to bring it into line with the right of workers' and employers' organizations to organize their activities. It further requested the Government to indicate the measures taken to amend sections 388, 390, 392 and 399 of the Labour Code and to ensure that National Bank employees may have recourse to industrial action, without penalty. Finally, the Committee urged the Government to provide full particulars on the steps taken, in accordance with the Commission's recommendations, to declare publicly that acts of interference in internal trade union affairs are unacceptable and will be sanctioned and to issue instructions to the Prosecutor-General, the Minister of Justice and court administrators so that any complaints of external interference made by trade unions are thoroughly investigated.

The Committee notes with regret the Government's indication that no amendment has been adopted in respect of the Law on Mass Activities. It further regrets that, rather than indicating the measures envisaged in this respect, the Government has called into question the relevance and clarity of the recommendations of the Commission of Inquiry. In this regard, the Committee must recall that it has been asking for the amendment of relevant provisions on mass activities since 2001. At that time, the Committee had asked the Government to amend Presidential Decree No. 11, a Decree that was superseded by the present Law on Mass Activities, in respect of the possibility of dissolution of a trade union in the event that an assembly, demonstration or picketing action resulted in the disruption of a public event, the temporary termination of an establishment's activities or disruption of transport, given the extreme gravity of such measures and recalling that restrictions on pickets should be limited to cases where the picketing ceases to be peaceful. While noting the Government's reiteration that the sanction of dissolution can only occur by court order and that it may be appealed, as well as the fact that this section has never been used to this end, the Committee must recall that the provisions of the Law on Mass Activities that allow for a decision for the dissolution of a trade union if the gathering, meeting, demonstration or picket causes important damage or substantial harm (defined to include temporal termination of activity of establishments or violation of transport traffic) is not in conformity with the right of workers to organize their activities and programmes free from interference by the public authorities. In addition, in its previous comments, the Committee had noted with concern the Commission's findings on the practical application of the Law on Mass Activities, in particular that the

authorities routinely and unilaterally changed the venue requested for a demonstration to an obscure and unfrequented location, thus rendering meaningless any right to demonstrate. *The Committee therefore once again asks the Government to take the necessary measures to ensure that the Law is amended, including by the deletion of any references to dissolution, so that restrictions on pickets are limited to cases where the action ceases to be peaceful or results in a serious disturbance of public order and that any sanctions imposed in such cases be proportionate to the gravity of the violation. The Committee also asks once again the Government to indicate the measures taken to amend sections 388, 390, 392 and 399 of the Labour Code and to ensure that National Bank employees may have recourse to industrial action, without penalty.*

As regards the issuance of a public declaration clearly indicating that acts of interference in internal trade union affairs would not be tolerated and instructions to be given to the Prosecutor-General, the Minister of Justice and court administrators to thoroughly investigate complaints by trade unions, the Committee notes the Government's references to the separation of powers and the existence of adequate legislation in this regard. The Government adds, however, that such issues are raised within the framework of the inter-departmental group established to coordinate the work on implementation of the recommendations, which includes the President of the Supreme Court and the Deputy General Prosecutor. Finally, the Government refers to specific planned activities, including a seminar for judiciary and prosecution employees aimed at acquainting them with ILO standards on freedom of association, to which the ILO is invited to participate. *The Committee notes this information and expresses the firm hope that all measures will be taken to publicly condemn any acts of interference by the public authorities in the internal activities of trade unions and that full dissemination of information relating to the Commission of Inquiry recommendations and the provisions of the freedom of association Conventions will take place through all possible means, including seminars for the judiciary and prosecution employees with the participation of the ILO.*

As regards its previous request to the Government not to interfere in the choice of union representatives on trade union bodies, the Committee firstly notes with regret from the 341st Report of the Committee on Freedom of Association that, rather than refraining from such interference, the Government took no steps to restrain a FPB initiative to establish a minimum membership requirement for the National Council on Labour and Social Issues (NCLSI) that resulted in eliminating the seat that had existed for the CDTU, and even voted for the proposed change to the Rules of the National Council in November 2005 (see 341st Report, paragraph 44). The Committee notes from the Government's reports that measures had also been taken in the Rules to ensure that non-representative unions could participate in the discussions and receive documents, but considers that the situation created by the Rules gives rise to further reinforcing the monopoly voice of the FPB contrary to the considerations of the Commission of Inquiry that "significant steps be taken in the immediate future to permit trade unions that are outside the FPB structure to be able to form their organizations and exercise their activities freely" (see *Trade Union Rights in Belarus: Report of the Commission of Inquiry appointed under article 26 of the ILO Constitution*, paragraph 634). The Committee does note, however, from the latest information provided by the Government that the FPB put forward a proposal to offer one of its 11 seats to the CDTU and that, according to the Government this proposal was endorsed by the Government, and employer sides and formalized in a resolution of the NCLSI. *The Committee requests the Government to transmit a copy of this resolution with its next report.*

Articles 3, 5 and 6 of the Convention. In its previous comments, the Committee once again urged the Government to amend section 388 of the Labour Code, which prohibits strikers from receiving financial assistance from foreign persons, and Decree No. 24 concerning the use of foreign gratuitous aid, so that workers' and employers' organizations may effectively organize their administration and activities and benefit from assistance from international organizations of workers and employers. The Committee notes the Government's indication that these restrictions are a matter of principle since the Government considers that strikes are used for political aims and that they are an extreme means of action, which are disruptive for workers and the economy in general. The Government adds that the receipt of such financial assistance from abroad places the other party in an unequal position and could be used as a means of unfair competition in a globalized economy. The Government adds that the provision in the Decree for dissolution of a trade union in case of violation has never been used and thus it cannot be claimed that the Decree hinders legal trade union activities. Finally, the Government states that it needs clarification as to the difficulties in application of the Convention arising from Decree No. 24.

In this respect, the Committee regrets that it is obliged to recall that it has been raising the problems of conformity of section 388 of the Labour Code and Decree No. 8 (superseded by similar provisions in Decree No. 24) since 2000 and 2001, respectively. While taking due note of the Government's arguments that it fears that, allowing the use of financial assistance from abroad for industrial action would upset the balance of power and could be used for political aims, the Committee must recall that the right to strike is an intrinsic corollary of the right to organize protected by Convention No. 87 and, as regards the concerns raised over possible political aims, that organizations defending workers' socio-economic and occupational interests should, in principle, be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and on workers in general (see 1994 General Survey, op. cit., paragraphs 151 and 165). In addition, the Committee does not consider that the fact that the dissolution provision has not been used can lead to the conclusion that trade union activities have not been hindered, as the mere existence of this prohibition and its legal consequences are sufficient to

hinder trade unions from using financial assistance in this manner. *The Committee must therefore reiterate that restrictions on the use of foreign aid for legitimate trade union activities is contrary to the right of national workers' and employers' organizations to receive financial assistance from international workers' and employers' organizations in pursuit of these aims and once again request the Government to take the necessary measures to amend both Decree No. 24 and section 388 of the Labour Code so that workers' organizations are not prohibited to use such aid to support industrial action or any other legitimate activity.*

The Committee considers that the current situation in Belarus remains far from ensuring full respect for freedom of association and the application of the provisions of the Convention and is particularly concerned about the impact that the proposed law on trade unions may have on the possibility of trade union pluralism. *Noting the indications made by the Government in its report that it would like to receive technical assistance from the Office, the Committee expresses the firm hope that the Government will use such assistance so as to take the necessary steps for the full implementation of the recommendations of the Commission of Inquiry and to ensure that any new legislation in the field of trade union rights is in full conformity with the provisions of the Convention.*

The Committee further requests the Government to respond to the comments made by the International Trade Union Confederation (ITUC) dated 9 November 2006.

[The Government is asked to supply full particulars to the Conference at its 96th Session.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1956)***

The Committee notes the information contained in the Government's reports, the conclusions of the Committee on Freedom of Association in its review of the measures taken by the Government to implement the recommendations made by the Commission of Inquiry (341st Report, approved by the Governing Body at its 295th Session), including the report of the mission carried out in Belarus in January 2006 in response to the requests made by the Conference Committee on the Application of Standards in June 2005, and the discussion that took place in the Conference Committee on the Application of Standards in June 2006. The Committee further notes the comments made by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention in law and in practice. Finally, the Committee notes from the Government's report that consultations relating to the recommendations of the Commission of Inquiry were held in Geneva between a high-level delegation from Belarus (including the Deputy Prime Minister) and officials of the ILO (including the Executive Director for Fundamental Principles and Rights at Work, the Director and Deputy Director of the Standards Department) and representatives from the ICFTU and the International Organisation of Employers (IOE).

Articles 1 and 3 of the Convention. In its previous comments, the Committee requested the Government to indicate the measures taken to review and redress all complaints of anti-union discrimination that had been raised in the article 26 complaint or had recently come to light in the examination of the follow-up given by the Government to the Commission's recommendations. It further urged the Government rapidly to adopt new, improved mechanisms and procedures to ensure effective protection against all types of anti-union discrimination and to indicate the progress made in this regard.

The Committee notes that the Government once again indicates that there is already sufficient protection against acts of anti-union discrimination in the labour legislation and that workers have the possibility of recourse to the judicial system if they consider their rights have been violated. The Government further provides statistics on the number of labour inspections carried out and the number of violations of the labour legislation that were found, yet has not indicated whether any of these related to anti-union discrimination. Finally, the Government refers to the tripartite General Agreement for 2006–08 wherein it was recommended that collective agreements include provisions setting out additional guarantees for workers elected to trade union bodies.

As for the investigation of complaints concerning anti-union discrimination and retaliation, the Committee notes the Government's indication that, following the consultations held in Geneva, it understands that the Council for the Improvement of Legislation in Social/Labour Spheres, which includes representatives from the Government, trade unions and employers' organizations, NGOs and academic experts, could be an appropriate place to review such complaints, as could be the NCLSI. The Government also referred to the use of the judicial system by the unions outside the structure of the Federation of Trade Unions of Belarus (FPB), the various investigations carried out and the conclusions, including one case where the Belarusian Free Trade Union (BFTU) was found to have cause for its complaint and the enterprise officials received warnings and another three cases where members of the Radio and Electronic Workers' Union (REWU) had won their court cases, although no details were provided as to the subject of the complaints.

The Committee nevertheless notes with regret that the Government has not been able to provide any statistics relating to the cases of complaint of anti-union discrimination and the decisions rendered. *In addition, the Committee considers that the issuing of warnings in the one case of the BFTU is not likely to serve as a sufficiently dissuasive sanction for the violation committed and requests the Government to confirm whether, following the warning, the BFTU has actually been allowed access to the premises of the enterprise concerned.*

The Committee further notes with regret that in none of the cases of anti-union discrimination and retaliation which were the subject of the Commission of Inquiry, nor in respect of the non-renewal of contracts of certain persons who had testified before the Commission, has there been any action to redress the situation or to seriously and independently investigate the claims (see 341st Report, paragraph 48). *The Committee does not consider that it is in a position to judge whether either of the national councils referred to by the Government could adequately provide the impartiality necessary to undertake an independent investigation of the complaints raised and thus urges the Government to discuss this matter with the trade unions most directly concerned so as to determine the most appropriate mechanisms and procedures to ensure effective protection against all types of anti-union discrimination and to keep it informed of the progress made in thoroughly reviewing the outstanding complaints and the results achieved.*

Article 2. In its previous comments, the Committee requested the Government to transmit a copy of a letter sent to directors of enterprises explaining the norms set by current national legislation and international labour standards. In its reports, the Government indicates that the letter was sent to 47 national government bodies and other state-run establishments. These state bodies then took the necessary steps to ensure that the letter from the Ministry of Labour and Social Protection reached the actual enterprises within their system. The Government adds that the Ministry of Industry forwarded the letter to the establishments under its remit and held a meeting on the issue with management representatives at the largest industrial enterprises. The Government transmitted a copy of the letter and the minutes of meetings showing how the matter was studied at some 57 enterprises. *Noting that the information provided by the Government reiterates that which was provided to the Committee on Freedom of Association (see 341st Report, paragraph 47), the Committee, like the Committee on Freedom of Association, asks the Government to pursue these instructions in a more systematic and accelerated manner so as to ensure that enterprise managers and directors do not interfere in the internal affairs of trade unions and that they will respect the autonomy of trade unions.*

Belgium

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1951)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU), of 10 August 2006, which refer, among other matters, to reprisals for the right to strike in the automobile sector and other restrictions on the exercise of the right to strike in various sectors, including a circular and a police order restricting strike pickets. *In this respect, the Committee requests the Government to provide its observations on the comments of the ICFTU.*

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its comments for the Committee's next session in November–December 2007 on the matters raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Belize

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1983)

The Committee regrets to note that the Government's report has not been received. It is therefore bound to reiterate its previous observation, which read as follows.

In its previous comments, the Committee recalled the need to amend the Settlement of Disputes (Essential Services) Act of 1939, as amended by Ordinances Nos. 57, 92, 51 and 32 in 1973, 1981, 1988 and 1994, respectively, which empowered the authorities to refer a collective dispute to compulsory arbitration, to prohibit a strike or to terminate a strike in such services as postal, monetary, financial and revenue-collecting services, transport services (civil aviation) and services in which petroleum products are sold, which are not essential services in the strict sense of the term.

The Committee noted with interest that Ministerial Order No. 117 of 1998 repealed Ordinance No. 32 of 1994 pursuant to which revenue services were included in the list of essential services.

As the 1998 repeal order only appears to deal with the question of the essential nature of revenue services, the Committee requests the Government to confirm that the above Ordinances, in so far as they concern the restriction of strike action for workers in the postal, monetary, transport (civil aviation) and petroleum sectors, are no longer in force and to provide copies of the relevant repealing orders.

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

Finally, the Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU), dated 10 August 2006, which essentially refer to issues already raised relating to the exercise of the right to strike.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1983)

The Committee regrets to note that the Government's report has not been received.

The Committee is therefore bound to reiterate its previous observation, which read as follows.

Articles 3 and 4 of the Convention. In its previous comments, the Committee recalled that, under the provisions of section 27(2) of the Trade Unions and Employers' Organizations (Registration, Recognition and Status) Act, Chapter 304, a trade union could be certified as a bargaining agent if it received 51 per cent of the votes and that problems might arise from such a requirement of an absolute majority since, where this percentage was not attained, the majority union would be denied the possibility of bargaining. ***The Committee therefore once again requests the Government to report on any measures taken or contemplated to amend the legislation so as to ensure that when no union covers more than 50 per cent of the workers, collective bargaining rights are granted to all the unions in this unit, at least on behalf of their own members.***

Comments of the ICFTU. The Committee notes that in its communication of 10 August 2006, the International Confederation of Free Trade Unions (ICFTU) indicates that the fines imposed in cases of anti-union discrimination are not sufficiently dissuasive. According to the ICFTU, cases of anti-union discrimination occur in practice in the banana plantation sector and in export processing zones, where employers do not recognize any unions. ***The Committee requests the Government to send its observations on this subject.***

The Committee is addressing a request directly to the Government on another matter.

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

Bosnia and Herzegovina

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1993)

The Committee takes note of the Government's report dated 31 May 2006. The Committee takes note of the discussion concerning the application of this Convention which took place at the Conference Committee in June 2006, and observes that it requested the Government to send a complete report for the next session of the Committee of Experts explaining the legal situation in the country regarding registration and to report any progress achieved in relation to improvements in the application of the Convention. The Committee regrets that the Government did not send this report. Furthermore, the Committee notes the comments made by the International Confederation of Free Trade Unions (ICFTU) dated 12 July and 10 August 2006 mainly concerning issues already raised.

Article 2 of the Convention. 1. *Requirement of previous authorization for the establishment of employers' and workers' organizations.* The Committee recalls that in its previous comments it had noted that article 32 of the Law on the Associations and Foundations of Bosnia and Herzegovina authorizes the Minister of Justice to accept or refuse a request for registration and provides that the request shall be considered as rejected if the Minister does not adopt a decision within 30 days. The Committee takes note of the Government's indication that activities and preparations are under way to change this law, specifically section 32. The Committee recalls that it considers that legislation which makes the registration and acquisition of legal personality a prerequisite for the existence and functioning of organizations and, at the same time, does not clearly define the reasons for refusal to grant a registration request, confers on the competent authority a genuinely discretionary power which is tantamount to a requirement for previous authorization. Problems of compatibility with the Convention may also arise where the registration procedure is long and complicated, raising serious obstacles to the establishment of organizations which amount to a denial of the right of workers and employers to establish organizations without previous authorization (see 1994 General Survey on freedom of association and collective bargaining, paragraphs 73–74 and 76). ***The Committee hopes that the activities and preparations that are under way to change the Law on the Associations and Foundations of Bosnia and Herzegovina will be finalized in the very near future and that the amendments will ensure that workers and employers can freely establish organizations of their own choosing without previous authorization. The Committee requests that the Government keep it informed in this regard.***

2. *Registration of the Confederation of Independent Trade Unions of Bosnia and Herzegovina.* The Committee further recalls that in its previous observation it had noted the unreasonable period which had elapsed since the filing of a registration request by the Confederation of Independent Trade Unions of Bosnia and Herzegovina and had requested information on the measures taken or contemplated in order to grant registration to this organization as soon as possible. The Committee takes note of the Government's statement made at the Conference Committee in June 2006 that efforts were being made to resolve the registration problem of the Confederation of Independent Trade Unions of Bosnia and Herzegovina and that a process to reform the legislation had been initiated to facilitate such registration. ***The Committee once again requests the Government to take all necessary measures so as to register the Confederation of Independent Trade Unions of Bosnia and Herzegovina promptly and to indicate in its next report progress made in this respect.***

The Committee recalls that in its previous comments the Confederation of Independent Trade Unions of Bosnia and Herzegovina had stated that the absence of registration created a risk of confiscating the organization's belongings and preventing it from participating in the Economic and Social Council, regardless of the fact that it was the most representative workers' organization. The Committee takes note of the Government's statement made at the Conference Committee in June 2006 that the absence of registration did not prevent organizations from participating in social dialogue. ***The Committee asks the Government to confirm that the Confederation of Independent Trade Unions of Bosnia and Herzegovina can participate in the Economic and Social Council.***

3. *Registration of employers' confederations.* In its previous comments, the Committee had requested the Government to provide in its next report information on the legislative measures taken so as to enable employers'

confederations to obtain registration in the future under a status conducive to the full and free development of their activities as employers' organizations both at the level of the Republic of Bosnia and Herzegovina and its two entities. ***The Committee once again requests the Government to provide this information in its next report.***

4. *Registration procedure.* The Committee recalls that in its previous comments it had noted the need to amend the legislation so as to provide more reasonable time limitations (sections 30(2), 34 and 35 of the Law on the Associations and Foundations of Bosnia and Herzegovina) with respect to the registration of employers' and workers' organizations and to ensure that they shall not suffer disproportionate consequences as a result of a delayed request (dissolution of the organization in question or cancellation of its registration). The Committee notes that, in its report, the Government indicates that under the activities of reviewing the Law on the Associations and Foundations of Bosnia and Herzegovina, the provisions shall also be reviewed in order to ensure some more reasonable timeframes for registration of employer and worker organizations. ***The Committee takes note of this information and hopes that the review of sections 30(2), 34 and 35 of the Law on the Associations and Foundations of Bosnia and Herzegovina will be finalized in the very near future. The Committee requests to be kept informed on this matter.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1993)

The Committee takes note of the Government's report. The Committee also takes note of the comments by the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006 concerning issues already raised, as well as comments on new violations of the Convention (anti-union discrimination, acts of interference and restrictions to collective bargaining in practice). ***The Committee will analyse them with the Government's next report on the Convention due for the regular reporting cycle in 2007.***

Botswana

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1997)

The Committee notes the Government's report and its reply to the comments submitted by the International Confederation of Free Trade Unions (ICFTU) on 10 August 2006. The ICFTU's comments mainly refer to matters previously raised by the Committee and to allegations concerning the massive dismissal of strikers in the mining sector, including the Chairperson and general secretary of the Botswana Mining Workers Union (BMWU); a harassment campaign against the new general secretary of the Botswana Federation of Trade Unions (BFTU); the eviction of BMWU leaders from the Debswana company's largest diamond mine at Orapa in October 2005, after they arrived to conduct elections for BMWU's branch committee; and the spying on, by members of the military intelligence, of the presidents of the Botswana Unified Local Government Service Association (BULGSA) and the Botswana Federation of Secondary School Teachers (BOFESETE). In regard to the strikers dismissed at the Debswana mines, the Committee notes the Government's statement that the dispute is before the Industrial Court, and, if it determines that any employees have been wrongfully dismissed, it may order their reinstatement, with or without compensation. ***In these circumstances, the Committee requests the Government to keep it informed of the final judicial decision concerning this allegation and to send its observations in respect of the other ICFTU comments with its next report.***

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee had previously referred to section 2(1)(iv) of the Trade Union Employers' Organizations (TUEO) (Amendments) Act, 2003, and section 2(11)(iv) of the Trade Disputes Act, both of which deny employees of the prison service the right to organize. The Committee notes the Government's statement that section 35 of the Prisons Act similarly prohibits prison officers from becoming members of a trade union or any body affiliated to a trade union, but that the Committee's comments were noted and consultations with relevant authorities on this issue were ongoing. ***In this regard, the Committee requests the Government to keep it informed of any measures taken to amend the above legislation, including section 35 of the Prisons Act, so as to ensure that prison workers enjoy the right to organize.***

Right of workers and employers to establish organizations of their own choosing. The Committee recalls that it had noted that section 48B(1) of the TUEO Act granted certain facilities (access to an employer's premises for purposes of recruiting members, holding meetings or representing workers, the deduction of trade union dues from employees' wages, recognition by employers of trade union representatives in respect of grievances, discipline and termination of employment) to unions representing at least one-third of the employees in an enterprise. The Government indicates that consultations with the social partners are ongoing with respect to amendments to this section of the Act. Recalling that workers' freedom of choice is jeopardized if the distinction between the recognized and non-recognized unions results, in law or in practice, in the granting of privileges such as to influence unduly the choice of an organization by workers, ***the Committee requests the Government to keep it informed of the practical application that this provision has on the choice of workers of their trade unions and the progress made in the tripartite discussions.***

Right of workers and employers to establish organizations without previous authorization. The Committee had previously requested the Government to amend its legislation so as to provide for an opportunity to rectify the absence of some of the formal requirements provided for in section 10 of the TUEO Act and to repeal sections 11 and 15, which

result in the automatic dissolution and banning of activities of non-registered organizations. The Committee notes the Government's statement that the objective of registration is to ensure orderliness and the proper functioning of trade unions and employers' organizations, and that deleting section 15 would defeat this objective since there would be no regulatory mechanism, and that consultations to rectify the formal requirements for registration are being held with the social partners. ***The Committee requests the Government to keep it informed of any measures adopted in this respect.***

Article 3 of the Convention. Right of workers' organizations to organize their administration and to formulate their programmes. The Committee had previously asked the Government to amend the following sections of the TUEO Act, so as to ensure that trade unions enjoy autonomy and financial independence from the authorities: section 43, providing for the inspection of accounts, books and documents of a trade union by the registrar "at any reasonable time"; and sections 49 and 50, providing for the inspection by the minister "whenever he considers it necessary in the public interest" of the financial affairs of a trade union. ***The Committee notes the Government's indication that consultations with the relevant authorities are ongoing and expresses the hope that the Government would be able to indicate the progress made with respect to their amendment in its next report.***

Right to strike. The Committee notes that sections 9(1)(b), 13 and 14 of the Trade Disputes Act empower the Commissioner and the Minister to refer a dispute in essential services to arbitration or to the Industrial Court for determination. The Committee notes further that the list of essential services specified in the Schedule of the Trade Disputes Act includes, among others, the Bank of Botswana, railways services, and the transport and telecommunications services necessary to the operation of all of these services. The Committee recalls that compulsory arbitration to end a collective labour dispute and a strike is acceptable if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted or banned, such as in the case of disputes in the public service involving public servants exercising authority in the name of the State, or in essential services in the strict sense of the term. The Committee notes the Government's indication that it included the Bank of Botswana in the list of essential services due to its critical role in the shaping of economic policy to promote economic stability and development, and that the stoppage of services rendered by the Bank would lead to an acute national crisis. In this connection, the Committee once again recalls that the essential services are only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee recalls that, in order to avoid damages which are irreversible or out of all proportion to the parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum service in other services which are of public utility rather than impose an outright ban on strikes (see General Survey of 1994 on freedom of association and collective bargaining, paragraphs 159–160). ***The Committee requests the Government to amend the Schedule of the Trade Disputes Act in the light of the abovementioned principles.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1997)

The Committee notes the Government's report and the attached copies of the Trade Union Disputes Act (2004) and the Trade Unions and Employers' Organizations (Amendment) Act, 2003.

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU), dated 10 August 2006, which mainly concern legislative issues raised in its previous observation. The ICFTU also underlines several problems regarding the application of the Convention, including anti-union dismissals in 2005, the imposition of compulsory arbitration and the harassment of trade union leaders. ***The Committee requests the Government to send its observations thereon.***

Previously, the Committee had requested the Government to undertake amendments to its laws so as to bring them into conformity with the requirements of the Convention. The Government states in this regard that the Committee's comments were noted, and that consultations with the relevant authorities are ongoing. ***The Committee notes this information and expresses the hope that the Government would, in its next report, be able to indicate the progress made with respect to the following issues raised by the Committee in its previous comments.***

Articles 1, 2 and 4 of the Convention. Trade union rights of officers of the prison services. The Committee notes that the Government amended the Trade Union Disputes Act and the Trade Unions and Employers' Organizations (Amendment) Act in order to include in their scope public officers other than the armed forces, the police and the prison services. The Committee recalls that the guarantees provided by the Convention apply to prison staff. ***The Committee once again requests the Government to amend its legislation (including section 35 of the Prisons Act) in order to bring it in full conformity with the Convention and to keep it informed of measures taken or envisaged in this respect.***

Article 2. Acts of interference. The Committee had noted that the legislation did not contain specific provisions for the protection of workers' organizations against acts of interference by employers and their organizations and requested the Government to amend its legislation by adopting specific provisions ensuring adequate protection of workers' organizations against acts of interference by employers or employers' organizations in the establishment, functioning or administration of trade unions, coupled with effective and sufficiently dissuasive sanctions. ***The Committee again requests the Government to keep it informed of measures taken or envisaged to afford legislative protection against acts of interference.***

Article 4 of the Convention. The Committee had noted that section 18(1)(a) of the Trade Union Disputes Act provides that the Industrial Court shall have jurisdiction to hear and determine all trade disputes except for disputes of interest. However, section 18(1)(e) provides that the Industrial Court shall have jurisdiction to direct the Commissioner to refer a dispute that is before the court, to arbitration while section 20(3) provides that a party to a labour dispute may make an urgent application to the Industrial Court for the determination of the dispute in question (without excluding disputes of interest). ***The Committee requests the Government to specify whether the Industrial Court has the power to direct the Commissioner to refer a dispute of interest to compulsory arbitration (for instance, in cases where one of the parties to the dispute has made an urgent application to this effect to the Industrial Court).***

The Committee had noted that, according to section 35(1)(b), an employer or employers' organization may apply to the Commissioner to withdraw the recognition granted to a trade union on the grounds that the trade union refuses to negotiate in good faith with the employer. The Committee considers that while the question as to whether or not one party adopts an amenable or uncompromising attitude towards the other party is a matter for negotiation between the parties, both employers and trade unions should bargain in good faith making every effort to reach an agreement. The Committee considers that the severity of this sanction could have an intimidating effect and jeopardize the free and voluntary nature of collective bargaining. ***The Committee requests the Government to take all necessary measures to repeal this provision.***

Brazil

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU), of 10 August 2006, referring to the exclusion of collective bargaining in subcontracting enterprises; the imposition of court awards in collective bargaining at the request of a single party; the dismissal of trade union leaders in violation of their trade union immunity; the slowness of the judicial authorities; the formulation of blacklists; the murder of leaders of rural workers' organizations and one trade unionist in the footwear sector. ***In this respect, the Committee requests the Government to provide its observations on the ICFTU's allegations. In view of the seriousness of the acts of violence reported by the ICFTU, the Committee recalls that freedom of association can only be exercised in conditions in which fundamental human rights, and in particular those relating to human life and personal safety, are fully respected and guaranteed.***

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee's next session in November–December 2007 on all the issues relating to the legislation and the application of the Convention in practice raised in its previous observation in 2005 (see the 2005 observation, 76th Session).

Rural Workers' Organisations Convention, 1975 (No. 141) (ratification: 1994)

The Committee notes the Government's report.

The Committee recalls that its previous comments refer to the following points:

- (a) the prohibition of establishing more than one trade union, whatever its level, to represent the same occupational or economic category at the same territorial location (article 8(II) of the Constitution and section 516 of the Consolidated Labour Code (CLC));
- (b) the deduction of a union contribution from the wages of workers in the various occupational categories to finance the maintenance of the confederal system of union representation (article 8(IV) of the Constitution), and the levying of compulsory union dues for all workers in a particular economic category (sections 578, 579 and 580 of the CLC). In this respect, the Committee notes the Government's information indicating that, in March 2005, it submitted to the National Congress the proposed constitutional amendment (PEC No. 369/05) that amends section 8 of the Constitution, which was prepared within the framework of the tripartite negotiations held by the National Labour Forum, and that this amendment will enable the Government to present the draft Trade Union Relations Act. ***Under these circumstances, the Committee strongly hopes that the proposed amendment to section 8 of the Constitution and the draft Trade Union Relations Act will be in full conformity with the Convention, and requests the Government to provide information on the legislative development of the draft in its next report;***
- (c) the requirement of five organizations at lower level in order to form federations and confederations (section 534 of the CLC). In this respect, the Committee recalls that, as in the present case of organizations in a single sector, such a requirement is too high and makes it difficult for trade unions to establish organizations at a higher level in full freedom, and is therefore contrary in particular to the provisions of the Convention respecting policies to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers. ***Under these circumstances, the Committee urges the Government to amend section 534 of the CLC so as to reduce the number of organizations at lower level required to form a federation, and to provide information in its next report on any measures adopted in this respect.***

Moreover, in its previous direct request, the Committee asked the Government to keep it informed of any legislative developments concerning the definition of rural workers in the CLC, since the definition is insufficient to cover all rural workers and as a result does not include temporary workers, workers engaged in sugar-cane harvests, casual workers, tenants and sharecroppers. The Committee observes that, according to the Government, the definition of rural workers for the purposes of their coverage by trade unions set out in Legislative Decree No. 1166 of 15 April 1971 is broader and covers both individuals providing services to a rural employer in return for remuneration of any type and workers whether or not they are owners who work on their own account or with their families, with this being understood as covering the members of the family, in activities that are indispensable for their own subsistence and carried on in conditions of mutual dependence and collaboration, even though the assistance of third persons may be used. The Committee takes note of this information.

Lastly, the Committee notes that with regard to the ratification of Convention No. 87, which it referred to in its previous direct request, the Government indicates that within the National Labour Forum, in which tripartite discussion takes place on constitutional and legal amendments, the social partners have agreed to establish a system that is based on neither trade union monopoly nor plurality, but representativeness, and that it is not yet clear if the new legislation will allow for the ratification of the Convention No. 87.

Recalling that under Article 3 of Convention No. 141 all categories of rural worker have the right to form, without previous authorization, organizations of their own choosing, the Committee requests the Government to take the necessary measure to amend the legislation so as to bring it into conformity with this Article. The Committee requests the Government to keep it informed of developments in this respect.

Bulgaria

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1959)

The Committee notes the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU), which largely concern issues of law and practice pertaining to the Convention that the Committee is already examining and refer in particular to flaws in the procedure for determining the representativeness of trade unions. *The Committee requests the Government to send its observations on the ICFTU's comments.*

It also requests the Government, in the context of the regular reporting cycle, to send for examination at the Committee's next session, to be held in November–December 2007, its comments on all the questions raised in the Committee's observation of 2005 (see 2005 observation, 76th Session).

Burkina Faso

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the Government's report.

It also notes the comments of the International Confederation of Free Trade Unions (ICFTU), dated 10 August 2006, which report in general terms repressive measures, reprisals and intimidation against trade unionists in the context of the privatization of public enterprises undertaken without consulting the trade unions. The Committee recalls in this respect that the rights of workers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations. It also emphasizes that restructuring in the public sector, particularly in relation to a privatization policy, inevitably has important consequences in the social field and in relation to trade unions and that it is important for the social partners, and particularly trade union organizations, to be consulted, at least on the social reach and form of the measures decided upon by the authorities. *The Committee requests the Government to take the necessary measures to ensure that these principles are respected.*

Article 3 of the Convention. Powers of requisitioning. The Committee recalls that its previous comments related to the need to amend sections 1 and 6 of Act No. 45-60/AN of 25 July 1960 regulating the right to strike of public servants and state employees. Under the provisions, public servants may be required to perform their duties in order to ensure the continuity of the administration and the safety of persons and property. In this respect, the Committee recalled that it would be advisable to restrict the power of the public authorities to requisition workers to cases in which the right to strike may be limited or even prohibited, namely: (1) public servants exercising authority in the name of the State; (2) essential services in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; and (3) in the event of an acute national crisis.

The Committee also drew the Government's attention to the fact that its request related to sections 1 and 6 of Act No. 45-60/AN regulating the right to strike of public servants and state employees, whose conditions of work have been governed, until now, by a specific law (Act No. 013/98/AN of 28 April 1998 issuing the rules governing jobs and employees in the public service) and not by the Labour Code.

The Committee notes that the Government refers in its report to section 353 of the new Labour Code, which provides that the competent administrative authority may, at any time, proceed to the requisition of workers in private enterprises and public services and establishments occupying jobs that are indispensable for the safety of persons and property, the maintenance of public order, the continuity of the public service or the satisfaction of the essential needs of the community. The Committee also notes that the list of jobs so defined in section 353 is to be determined by regulations issued following the opinion of the Labour Advisory Commission.

While noting this information, the Committee however observes that, under the terms of section 4 of the Labour Code, officials in the public service, inter alia, are not governed by the provisions of the Labour Code. *The Committee therefore requests the Government to indicate whether Act No. 45-60/AN is still in force and, if so, to take the necessary measures to amend or repeal sections 1 and 6.*

With regard to section 353 of the Labour Code, the Committee similarly considers that it would be desirable to limit the powers of the public authorities to requisition workers to cases in which the right to strike may be limited or even prohibited (see above). *The Committee requests the Government to take the necessary measures to ensure that section 353 is in full conformity with the provisions of the Convention. It also requests the Government to provide with its next report the list of jobs determined under section 353 of the Labour Code, as established by regulations.*

The Committee further notes that the new Labour Code contains a chapter respecting apprenticeship contracts. *In this respect, the Committee requests the Government to provide information in its next report on the legislative provisions governing the right to organize of apprentices.*

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

The Committee notes the Government's report.

1. *Comments of the International Confederation of Free Trade Unions (ICFTU).* The Committee notes the ICFTU's comments of 10 August 2006 concerning anti-trade union dismissals and requests the Government to provide its response on this subject.

2. *Article 4 of the Convention. Collective bargaining in the public sector.* With regard to its previous comments on the composition, functioning and competence of the Advisory Council of the Public Service in relation to concerted dialogue (section 51 of Act No. 013/98/AN of 13 April 1998 respecting the public service), the Committee notes that the Government will take the necessary measures to communicate the decrees envisaged in the legislation once they have been adopted. *The Committee hopes that these decrees will be adopted in the near future and requests it to keep the Committee informed of any measure envisaged in this respect.*

3. *Collective bargaining in other sectors.* With regard to its request for information on the progress achieved with the draft collective agreements for the bakery, road transport and private radio sectors, and any other collective agreements, the Committee notes that, according to the Government, there has been no significant progress in relation to the draft collective agreements in the bakery and road transport sectors, but that there has been a draft collective agreement in the media sector. *The Committee notes with regret that significant progress has not yet been achieved and requests the Government to take measures to promote compliance with the Convention in the above sectors and to keep it informed thereof.*

Burundi

Right of Association (Agriculture) Convention, 1921 (No. 11) (ratification: 1963)

The Committee notes the Government's report.

The Committee recalls that for many years now its comments have referred to the need to amend Legislative Decree No. 1/90 of 25 August 1967 on rural associations which provides that, in the event of public subsidy, the Minister of Agriculture may establish rural associations (section 1), membership of which is compulsory (section 3) and that he determines their statutes (section 4). It also provides that the obligations of agricultural workers who are members of these associations include the provision of services for the common enterprise, the payment of a single or regular contribution, the provision of agricultural or livestock products and the observance of rules respecting cultural discipline and other matters (section 7), under penalty of the seizure of the member's property (section 10).

The Committee notes the Government's indication that the Decree in question has not yet been repealed, but that its repeal will take place in the near future. *The Committee strongly hopes that the Government will finally take effective measures to amend or repeal Legislative Decree No. 1/90 of 25 August 1967, and requests the Government to provide information in this respect in its next report.*

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1997)

The Committee notes the Government's report.

1. *Articles 1, 2 and 3 of the Convention. Non-dissuasive nature of the penalties established by the Labour Code for violations of Article 1 (protection of workers against acts of anti-union discrimination) and Article 2 (protection of employers' and workers' organizations against any acts of interference by each other) of the Convention.* In its previous comments, the Committee noted that, according to the Government, the provisions in question would be amended with the collaboration of the social partners. The Committee notes the Government's reply that no progress has been achieved with regard to the adoption of sufficiently dissuasive penalties but that, as social dialogue is the current Government's priority, measures are to be envisaged in dialogue with the partners to ensure that dismissals, judicial, administrative and other types of procedures, transfers and imprisonment for the exercise of trade union activities do not occur again. Among these measures, there will be awareness raising with regard to Convention No. 98. ***The Committee regrets that no amendment has been made to the legislation and, recalling the need to establish sufficiently dissuasive penalties, hopes that the Government will be able to make the necessary amendments to the legislation in the near future. The Committee requests the Government to keep it informed of any progress achieved in this respect.***

2. *Article 4. Right of collective bargaining in practice.* The Committee noted previously that there was only one collective agreement in Burundi. It notes the Government's reply that no other collective agreements have been concluded in the sectors covered by the Labour Code, although there exist sectoral agreements in the public sector concluded between the Government and the trade unions of teachers and the Government and trade unions in the health sector. With regard to the measures adopted by the Government to promote collective bargaining, the Committee notes that, according to the Government's report, the Ministry of Labour and Social Security and the social partners of Burundi requested the ILO-PRODIAF programme to carry out a mission to Bujumbura in July 2002. Furthermore, at the request of the partners in Burundi, the ILO-PRODIAF programme, the ILO Office in Kinshasa and the ILO Multidisciplinary Team for Central Africa organized two meetings and a workshop in October 2002 in collaboration with the Ministry of Labour and Social Security. ***With reference to the information for the year 2002, the Committee therefore once again requests the Government to provide information in its next report on the precise measures adopted to promote collective bargaining, and to continue providing it with information of a practical nature on the situation with regard to collective bargaining, and particularly the number of collective agreements concluded up to now and the sectors covered. The Committee expresses concern at the situation with regard to collective bargaining in the country and the very low number of collective agreements and it hopes that the Government will be able to indicate substantial progress in its next report.***

3. *Article 6. Right of collective bargaining for public servants not engaged in the administration of the State.* In its previous comments, the Committee noted the observations made by the International Confederation of Free Trade Unions (ICFTU) that public sector wages are excluded from the scope of collective bargaining, inter alia, by national legislation, and it requested the Government to reply to the ICFTU's observation by explaining exactly how the right to collective bargaining of all the personnel in public establishments and "personalized" administrations, including officials on secondment to them, was ensured. The Committee noted the Government's reference to section 1 of Act No. 1/015 of 29 November 2002 regulating the exercise of the right to organize and the right to strike in the public service, which provides that all state employees have the right to associate freely in trade unions to promote and defend their occupational interests. However, it is not possible to ascertain from this legal provision whether wages and other conditions of work in the public sector as a whole are excluded from the scope of collective bargaining and the Committee requested the Government to provide information in this regard. ***The Committee regrets that the Government has not supplied the clarifications requested and asks it once again to provide them.***

4. Moreover, recalling that the Convention applies to public employees who are not engaged in the administration of the State, the Committee requested the Government to specify whether provisions that imply restrictions on the scope of collective bargaining for the public service as a whole are still in force in Burundi, particularly as regards the determination of wages, such as: (1) section 45 of Legislative Decree No. 1/23 of 26 July 1988, which provides that, following approval by the relevant ministry, the governing councils of public establishments set the level of remuneration for permanent and temporary posts and determine the conditions for appointment and dismissal; and (2) section 24 of Legislative Decree No. 1/24, which provides that governing councils of public establishments draw up staff regulations for personalized administrations subject to the approval of the competent minister. The Committee notes that, in its reply, the Government indicates that these provisions are still in force, but that in practice state employees participate in determining their terms and conditions of employment. According to the Government, this is the reason for the existence of agreements in the education and health sectors. In the case of public establishments and personalized administrations, the employees participate in the determination of remuneration as they are represented on the governing councils, and wage claims are submitted to the employer by enterprise councils or trade unions, with the competent minister only intervening to safeguard the general interest. ***The Committee requests the Government to take measures to align the law with national practice and, in particular, to amend section 45 of Legislative Decree No. 1/23 of 26 July 1988 and section 24 of Legislative Decree No. 1/24 so as to ensure that organizations of public servants and employees who are not engaged in the administration of the State can negotiate their wages and other terms and conditions of employment.***

5. Finally, the Committee notes the comments made by the Confederation of Trade Unions of Burundi (COSYBU) of 15 November 2006 (received on 7 November 2006) on the implementation of the Convention, ***and requests the Government to send its reply thereon.***

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1997)

The Committee notes the Government's report.

In reference to its previous comments in respect of the facilities afforded to workers' representatives, the Committee duly notes that section 261 of the Labour Code provides that the employer shall grant staff representatives on the works council one hour every three months to hold a staff meeting, and that section 268 provides for the right to put up notices, organize meetings and collect dues.

Cambodia**Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1999)**

The Committee notes with regret that the Government's report has not been received.

The Committee notes the comments on the application of the Convention submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication of 10 August 2006. The ICFTU refers to matters already raised and alleges a permanent harassment against the Cambodian Independent Teachers' Association, the arrests and disappearance of trade union leaders, police and military violence against strikers and the conviction of two innocent men for the murder of a trade union leader. In this respect, the Committee recalls that the right of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against leaders and members of these organizations and it is for governments to ensure that this principle is respected. *The Committee requests the Government to send its observations on all these serious comments, as well as on the ICFTU comments of 2005* (the exclusion of civil servants from the scope of the Labour Law, the limitations to the right to elect union representatives freely and the restrictions to the right to strike notably by imposing a minimum service requirement in all enterprises regardless of whether they are public utilities, the non-recognition of the Cambodian Construction Trade Union Federation (CCTUF), the murder of two trade union leaders, threats against unionists, intimidation, harassment and physical attacks and that strikes and protests met with violent police repression).

The Committee is addressing a request directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1999)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which largely refer to pending issues relating to legislation and the application of the Convention in practice that are already under examination. The ICFTU also reports: (1) the denial of trade union rights to public officials, including teachers, civilian personnel in the armed forces and domestic workers; (2) a ministerial regulation of 2004 ("Prakas" No. 13), which allows third parties, including the employer, to interfere in matters of trade union representativeness in the process of collective bargaining; (3) acts of anti-union discrimination in various sectors, which serve to confirm the inadequacy of the legal protection; and (4) the limited number of collective agreements. *In this respect, the Committee requests the Government to provide its observations on the comments made by the ICFTU.*

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee's next session in November–December 2007 on all the issues relating to legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Finally, the Committee notes that in Case No. 2443 the Committee on Freedom of Association referred to the need for appropriate legal protection against acts of anti-union discrimination, including sufficiently dissuasive sanctions. *The Committee requests the Government to inform it on any measures adopted in order to modify the legislation and to increase the sanctions.*

Cameroon**Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)**

The Committee takes notes of the comments of the International Confederation of Free Trade Unions (ICFTU) dated 6 July 2006, which concern some legislative issues already raised in the Committee's previous observation, as well as allegations of harassment of the Single National Union of Teachers and Professors in the Teachers' Training Faculty (SNUIPEN).

The Committee takes notes of the Government's response to the comments of the CGT-liberté and the ICFTU and observes that the allegations concerning SNUIPEN are being followed up by the Committee on Freedom of Association (Case No. 2382). *The Committee requests the Government to communicate for its next session of November–December 2007, in the context of the regular cycle of submission of reports, its observations on all questions concerning the*

application in practice of the Convention mentioned in its last observation (2005 observation, 76th Session), as well as on the comments made by the Public Sector Trade Union of Cameroon (CSP) and the General Workers' Trade Union of Cameroon (UGTC).

Canada

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1972)

The Committee takes note of the comments by the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006 concerning issues already raised, as well as new allegations of violations of the Convention and of the Government's recent reply to these comments. *The Committee will analyse the ICFTU's comments and the Government's reply thereon at its next session (November–December 2007) due for the regular reporting cycle in 2007.*

The Committee asks the Government, in the context of the regular reporting cycle, to send for examination at its next session, its comments on all the matters raised in the observation of 2005 (see 2005 observation, 76th Session).

Central African Republic

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU), of 10 August 2006, criticizing compulsory arbitration in the case of disputes not resolved by conciliation, as well as the arrest of a trade union leader and police action preventing the right of assembly. *In this respect, the Committee requests the Government to provide its observations on the comments of the ICFTU.*

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its comments for the Committee's next session in November–December 2007 on all the matters raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1964)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, indicating that wages in the public sector are determined by the Government following consultations with the trade unions but with no negotiation. *In this respect, the Committee requests the Government to provide its observations on the comments made by the ICFTU.*

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee's next session in November–December 2007 on all the issues relating to legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Chad

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) referring to legislative matters already under examination by the Committee and to the application of the Convention in practice. The ICFTU reports that numerous unionized workers of a petroleum company were the subject of arrests and violence in September 2005. *The Committee requests the Government to send its comments on this matter.*

The Committee also asks the Government, in the context of the regular reporting cycle, to send for examination at its next session to be held in November–December 2007, its comments on all the matters raised in the observation of 2005 (see 2005 observation, 76th Session).

Chile

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1999)

The Committee notes the Government's report. The Committee also notes the comments of the National Inter-Enterprise Union of Metallurgists, Energy, Communication and Allied Branches (SME), of 9 January 2006, and of the National Confederation of Municipal Employees of Chile (ASEMUCH) of 25 May 2006. The Committee notes that the SME refers to legislative issues already raised by the Committee and that it raises objections to section 11 of Act

No. 12927 on the internal security of the State, which provides that any interruption or collective suspension, stoppage or strike in public services or services of public utility, or in production, transport or commercial activities which is not in accordance with the law and results in prejudice to the public order or to compulsory legal functions or damage to any vital industries shall constitute an offence and be penalized with imprisonment or banishment. In this respect, the Committee considers that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association. Even in such cases, both excessive recourse to the courts in labour relations and the existence of heavy sanctions for strike action may well create more problems than they resolve. Since the application of disproportionate penal sanctions does not favour the development of harmonious and stable industrial relations, if measures of imprisonment are to be imposed at all they should be justified by the seriousness of the offences committed and should be subject to normal judicial review (see 1994 General Survey on freedom of association and collective bargaining, paragraph 177). ***The Committee therefore requests the Government to take the necessary measures to repeal the above provision so as to bring the legislation into conformity with the provisions of the Convention and to provide information in its next report on any measure adopted in this respect.***

The Committee also notes the indication by ASEMUCH that neither its comments nor those of the Committee have been taken into account and that the draft text of Act No. 18695 setting forth the constitutional framework for municipal authorities, which would abolish the right to strike of municipal officials and affect their rights in terms of stability of employment, training, qualifications and remuneration, has not been amended. The Committee notes the Government's indication that in 2005 a tripartite working group met, with the participation of representatives of the Government and of ASEMUCH, but that the negotiations broke down. ***Considering that the prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State (see General Survey, op. cit., paragraph 158), the Committee requests the Government to continue making every possible effort during the process of consultation on the above draft legislation and to keep it informed of any legislative developments in this connection.***

The Committee also recalls that for several years it has been requesting the Government to amend or repeal a number of legislative provisions, or to take steps to secure for certain workers the guarantees afforded by the Convention. The Committee regrets to note that the Government's report does not contain any information on this subject. More specifically, the Committee requested the Government to:

- ensure that officials of the judiciary are afforded the guarantees set forth in the Convention;
- amend article 23 of the Political Constitution which provides that the holding of trade union office is incompatible with active membership in a political party and that the law shall lay down sanctions for trade union officials who participate in party political activities;
- amend sections 372 and 373 of the Labour Code, under which an absolute majority of the workers of the enterprise is required for a decision to strike;
- amend section 374 of the Labour Code, under which a strike must be carried out within three days of the decision to call it, otherwise the workers of the enterprise concerned shall be deemed to have refrained from going on strike and so accept the employer's final offer;
- amend section 379 of the Labour Code which provides that at any time the group of workers concerned by the negotiations may be called upon to vote, by at least 20 per cent of them, for the purpose of taking a decision, by absolute majority, to censure the negotiating committee, in which case a new committee shall be elected forthwith;
- amend section 381 of the Labour Code containing a general prohibition on the replacement of striking workers, but which provides for the possibility of such replacement subject to compliance by the employer with certain conditions in the final offer during the negotiating process;
- amend section 384 of the Labour Code which provides that strikes may not be called by workers in enterprises which provide public utility services or services the interruption of which would seriously endanger the health, public supply, the national economy or national security (the third paragraph of section 384 provides that, in such cases, if no agreement is reached between the parties to the bargaining, the matter shall be referred to compulsory arbitration). The Committee noted that the definition of services in which strikes may be prohibited, as set out in section 384, as well as the list drawn up by the government authorities, is too broad and goes beyond services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (for example, port enterprises, the Central Bank and the railway);
- amend or repeal section 385 of the Labour Code which provides that, in the event of a strike which by its nature, timing or duration causes a serious risk to health, the supply of goods or services to the population, the national economy or national security, the President of the Republic may order the resumption of work;
- amend section 254 of the Penal Code which provides for penal sanctions in the event of the interruption of public services or public utilities or the abandonment of their posts by public employees; and
- amend section 48 of Act No. 19296 which grants broad powers to the Directorate of Labour for supervision of the accounts and financial and property transactions of associations.

The Committee hopes that the Government will take all the necessary measures to amend the legislation so as to bring it into full conformity with the provisions of the Convention and requests it to provide information in its next report on any measure adopted in this respect.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1999)

The Committee notes the Government's report and the comments made by the National Inter-Enterprise Union of Metallurgists, Energy, Communication and Allied Workers, of 8 January 2006, and the National Confederation of Municipal Employees of Chile (ASEMUCH), of 25 May 2006. The Committee notes that ASEMUCH's comments relate to draft legislation which would deny organizations of municipal employees the right to collective bargaining, in relation to which the Committee requested the Government in its previous observation to consult the trade union organizations concerned, and it notes the indication by ASEMUCH that the draft legislation has not been reformulated. The Committee notes the Government's indication that a tripartite working party met in 2005 with the participation of representatives of the Government and of ASEMUCH, but that the negotiations broke down. ***In this respect, the Committee recalls the importance that has to be attached to the holding of frank and exhaustive consultations on any matter or planned legislation which affects trade union rights and it requests the Government to ensure that the draft legislation in question is in accordance with the Convention.***

The Committee notes that the Government has not sent its observations on the comments that it has been making for several years on the following issues:

- section 304 of the Labour Code does not allow collective bargaining in state enterprises dependent on the Ministry of National Defence or those connected with the Supreme Government through that Ministry, or in those in which special laws prohibit that possibility, nor can there be collective bargaining in public or private enterprises or institutions whose budgets have been financed in any of the last two calendar years to the extent of 50 per cent by the State, directly or by means of duties or taxes. The Committee recalls once again that this provision is not in conformity with the Convention. ***The Committee requests the Government to take the necessary measures to ensure that workers in the above sectors, who are not members of the armed forces, the police or public servants engaged in the administration of the State, benefit from the right to collective bargaining;***
- section 1 of the Labour Code provides that the Code does not apply to officials of the National Congress or the judiciary, nor to workers in state enterprises or institutions, or those in which the State has an interest, participation or representation, provided that such officials and workers have a special status in law. The Committee once again recalls that workers in the service of the National Congress and the judiciary, in the same way as those in state enterprises or institutions or those in which the State has an interest, participation or representation, should benefit from the right to collective bargaining. ***In this respect, the Committee requests the Government to take measures to ensure that the officials in question, who are not officials engaged in the administration of the State, are guaranteed this right and to inform it in its next report on any measures taken in this respect;***
- sections 314bis and 315 of the Labour Code provide that groups of workers, who are distinct from trade unions, may submit draft collective agreements. In this respect, the Committee emphasizes that the Convention refers to the promotion of collective negotiation between employers or their organizations and workers' organizations and that groups of workers should only be able to negotiate collective agreements or contracts in the absence of such organizations. ***Under these conditions, the Committee once again requests the Government to take measures to amend the legislation in this regard and to provide information in its next report on any developments in this respect;***
- section 320 of the Labour Code places the obligation on employers to communicate to all workers in the enterprise the submission of a draft collective agreement so that they can propose draft texts or subscribe to the draft submitted. In this respect, taking into account the comments made in the previous paragraph, the Committee reiterates that this provision is not in conformity with *Article 4 of the Convention*. ***The Committee requests the Government to take measures to repeal this provision. The Committee requests the Government to provide information in its next report on any measure adopted in this respect.***

Finally, the Committee regrets to note that the Government has not provided its observations on the comments made by the Inter-Enterprise Union of Metallurgists, Energy, Communication and Allied Workers (SME) referring to: (1) section 82 of the Labour Code, which provides that "in no event may the remuneration of apprentices be determined by means of collective agreements or contracts or arbitration awards issued in the context of collective bargaining"; (2) section 305(a) provides that workers governed by an apprenticeship contract and those engaged exclusively to work on a specific task, activity or for a specific period may not engage in collective bargaining; (3) section 334(b) provides that two or more unions from different enterprises, an inter-enterprise union or a federation or a confederation may submit draft collective labour contracts on behalf of their members and the workers who support them, but in order to do so it shall be necessary in the enterprise concerned for the absolute majority of the workers who are members to accord representation to the trade union organization concerned for the right to engage in collective bargaining in an assembly by secret ballot and under oath; and (4) section 334bis provides that it shall be voluntary or optional for the employer to

negotiate with the inter-enterprise union and in the event that the workers in the enterprise who are members of the inter-enterprise union fail to give their consent they may submit draft collective contracts in accordance with the general rules of Book IV (on collective bargaining). With reference to points 1 and 2, the Committee recalls that, under the terms of *Articles 5 and 6* of the Convention, only the armed forces, the police and public officials engaged in the administration of the State may be excluded from collective bargaining. With regard to points 3 and 4, the Committee considers that the provisions in question do not adequately promote collective bargaining with trade union organizations. ***The Committee therefore requests the Government to take the necessary measures to amend or repeal sections 82, 305(c), 334(b) and 334bis to bring the legislation into conformity with the Convention. The Committee requests the Government to keep it informed of any legislative developments in this respect.***

Colombia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1976)

The Committee notes the Tripartite Agreement for the Right of Association and Democracy concluded by the Government and the representatives of employers and workers in Geneva in the context of the Conference Committee on the Application of Standards, on 1 June 2006. The Committee notes the Government's observations in reply to the comments made by the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labour (WCL), dated 31 August and 7 September 2005, and the Single Confederation of Workers (CUT), the General Confederation of Labour (CGT) and the Confederation of Workers of Colombia (CTC) of 7 and 14 June, 31 August and 7 September 2005, which refer to issues already raised by the Committee in its 2005 observation.

The Committee also notes the reports of the Committee on Freedom of Association on the various cases under examination concerning Colombia, adopted at its sessions in March, June and November 2006. In particular, the Committee notes Case No. 1787, relating to acts of violence against trade union officials and members, which include murders, kidnappings, attempted murders, disappearances and the situation of impunity affecting the country.

The Committee further notes the comments of the ICFTU of 10 August 2006, and the joint comments of the CUT, CGT, CTC and the Confederation of Pensioners of Colombia (CPC), of 16 June 2006, referring to pending issues relating to the legislation and the application of the Convention in practice which are under examination, and particularly to acts of violence against trade union leaders and members, and the grave situation of impunity. In this respect, the ICFTU indicates that in 2005 there were 70 murders, 260 death threats, 56 cases of arbitrary detention, seven attempted murders, three disappearances and eight forced relocations. The Committee recalls the interdependence between civil liberties and trade union rights and emphasizes that a truly free and independent trade union movement can only develop in a climate of respect for fundamental human rights (see 1994 General Survey on freedom of association and collective bargaining, paragraph. 26) and that employers' and workers' organizations can only exercise their activities freely and meaningfully in a climate that is free from violence. ***The Committee requests the Government to provide its observations in this respect.***

Finally, in relation to the comments of the Union of Maritime and Inland Water Transport Industry Workers (UNIMAR), of 30 May 2006, relating to a situation where a company has been liquidated in disregard of the trade union immunity of trade union leaders, the Committee requests the organizations concerned and the Government to examine the possibility of finding a solution to the dispute in the context of the recently concluded Tripartite Agreement, which includes a commitment to convene the National Commission on Wages and Labour Policies.

The Committee proposes, in accordance with the regular reporting cycle, to examine at its next session in November–December 2007 all the matters relating to the legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

The Committee hopes that the recently adopted Tripartite Agreement will be implemented in the near future and that, in the context of this Agreement, serious problems in respect of the freedom of association which the Committee has been raising for numerous years will be examined.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1976)

The Committee notes the Tripartite Agreement for the Right of Association and Democracy concluded by the Government and the representatives of employers and workers in Geneva in the context of the Conference Committee on the Application of Standards, on 1 June 2006. The Committee notes the Government's observations in reply to the comments made by the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labour (WCL), dated 31 August and 7 September 2005, and the Single Confederation of Workers (CUT), the General Confederation of Workers (CGT) and the Confederation of Workers of Colombia (CTC) of 7 and 14 June, 31 August and 7 September 2005, referring to issues already raised by the Committee in its 2005 observation.

The Committee also notes the reports of the Committee on Freedom of Association on the various cases under examination concerning Colombia, adopted at its sessions in March, June and November 2006.

The Committee further notes the comments of the ICFTU of 10 August 2006, and the joint comments of the CUT, CGT, CTC and the Confederation of Pensioners of Colombia (CPC), of 16 June 2006, referring to pending issues relating to the legislation and the application of the Convention in practice which are under examination, such as the submission of collective disputes to compulsory arbitration by the Ministry of Social Protection, the power of arbitration boards to revise collective agreements and the exclusion of many workers from the scope of collective agreements due to the increase in the use of civil contracts. The ICFTU also denounces the pressure exerted by armed groups upon workers to renounce the rights established in collective agreements. ***The Committee requests the Government to provide its observations in this respect.***

Finally, in relation to the comments of the Union of Maritime and Inland Water Transport Industry Workers (UNIMAR), of 30 May 2006, relating to a process of liquidation in disregard of the special protection of trade union officials, the Committee is examining this matter in its observation on Convention No. 87.

The Committee proposes, in accordance with the regular reporting cycle, to examine at its next session in November–December 2007 all the matters relating to the legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 2000)

The Committee notes the comments of the Union of Public Officials of the University Hospital of Valle (SINSPUBLIC), of 3 April 2006, and the Single Confederation of Workers (CUT), of 4 April 2006, according to which Act No. 909 of 2004 and its implementing regulations, enacted without prior consultation with trade union organizations, compel workers in the public sector to undergo once again merit competitions in order to be confirmed in their posts, in violation of the collective agreement concluded between SINSPUBLIC and the hospital administration. ***The Committee requests the Government to provide its observations on this subject.***

The Committee also notes the joint comments made by CUT, the General Confederation of Labour (CGT), the Confederation of Workers of Colombia (CTC) and the Confederation of Pensioners of Colombia (CPC), dated 16 June 2006, according to which section 416 of the Substantive Labour Code does not allow trade unions of public employees to engage in collective bargaining. In this respect, the Committee refers to its comments on the application of Convention No. 154.

Collective Bargaining Convention, 1981 (No. 154) (ratification: 2000)

The Committee notes the joint comments made by the Single Confederation of Workers (CUT), the General Confederation of Labour (CGT), the Confederation of Workers of Colombia (CTC) and the Confederation of Pensioners of Colombia (CPC), dated 16 June 2006, according to which section 416 of the Substantive Labour Code does not allow trade unions of public employees to engage in collective bargaining. They add that ruling No. C-1234 of the Constitutional Court, of 29 November 2005, found that “the legislator shall regulate the procedure, in due time and in dialogue, in so far as possible, with the trade union organizations of public employees, governing the right of such employees to engage in collective bargaining, in accordance with Article 55 of the Constitution and ILO Conventions Nos. 151 and 154 duly ratified by the country and which form part of domestic law under the terms of Acts Nos. 411 of 1998 and 524 of 1999, respectively”. ***Under these circumstances the Committee requests the Government, in the light of the ruling of the Constitutional Court, to adopt the necessary measures to regulate the right of collective bargaining of public employees in accordance with the Convention.***

Finally, the Committee notes the Tripartite Agreement on the Right of Association and Democracy, which includes the undertaking to convene the National Commission on Wages and Labour Policies, concluded by the Government and the representatives of workers and employers in Geneva in the context of the Committee on the Application of Standards of the International Labour Conference on 1 June 2006.

Comoros

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1978)

The Committee notes the Government’s report.

Article 4 of the Convention. In its previous comments, the Committee noted the significance of the measures which are to be taken to promote voluntary negotiation between employers and workers’ organizations and it requested the Government to keep it informed of any memoranda of understanding or collective agreements that were concluded. The Committee notes that the Government has supplied two draft collective agreements, one on pharmacies and the other on the bakery, pastry-making and allied industries, and that it indicates that collective bargaining remains a major concern of the Government, whose wish is to promote concerted action by all the social partners. While noting the development reported by the Government, the Committee is bound to express its concern at the situation with regard to collective bargaining in the country and requests the Government to take measures to promote collective bargaining and to keep it informed in this respect. ***The Committee expresses the firm hope that the Government will be in a position to provide***

information in its next report on substantial progress in the number of collective agreements and accords concluded in the public and private sectors. The Committee reminds the Government that ILO technical assistance is at its disposal.

Congo

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

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

In its previous comments, the Committee requested the Government to amend the legislation on the minimum service organized by the employer to be maintained in the public service that is indispensable for safeguarding the general interest (section 248-15 of the Labour Code), in order to limit the minimum service to operations which are strictly necessary to meet the basic needs of the population, within the framework of a negotiated minimum service. In this respect, the Committee noted that, according to the Government, section 248-15 had been amended, but that it was not able to provide a copy of the text amending the provisions of this section. The Committee recalls that, since the definition of a minimum service restricts one of the essential means of pressure available to workers to defend their economic and social interests, their organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities. The parties might also envisage the establishment of a joint or independent body responsible for examining rapidly and without formalities the difficulties raised by the definition and application of such a minimum service and empowered to issue enforceable decisions (see 1994 General Survey on freedom of association and collective bargaining, paragraph 161). *The Committee expresses the hope that the text amending section 248-15 of the Labour Code takes these principles into account and requests the Government to send it a copy of the text as soon as possible.*

Finally, the Committee requested the Government to keep it informed of developments in the revision of the Labour Code in its next report and to send it a copy of any draft amendment to that Code in order to ensure its conformity with the provisions of the Convention. The Committee noted the Government's indication that the revision process had been completed and that the draft text had been submitted to the National Labour Advisory Commission for its opinion. *The Committee requests the Government to send it a copy of the draft revised Labour Code and to continue to keep it informed in this regard.*

Finally, the Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) made in a communication dated 10 August 2006 concerning the arrest for 24 hours of eight trade union representatives on 27 October 2005. *The Committee requests the Government to provide its observations on the ICFTU's comments.*

Costa Rica

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1960)

The Committee takes note of the Government's report, the discussion held on the application of the Convention in the Conference Committee in June 2006, the report of the High-Level Mission to Costa Rica undertaken from 2 to 6 October 2006, as well as the communications transmitted by the Government following the Mission. The Committee notes the comments submitted by the ICFTU on 12 July 2006, and the Government's reply. The Committee observes that the Government's response refers solely to the legislative issues raised by the ICFTU without addressing the latter's comments regarding violations of the Convention in 2005. *The Committee requests the Government to transmit its observations on the alleged violations. Further noting the comments of the Union of Public and Private Enterprise Employees (SITEPP), dated 3 October 2006 (and received on 20 October 2006), the Committee requests the Government to submit its observations thereon.*

The Committee recalls that in its previous observation it raised the following points concerning the application of the Convention:

- the slowness and ineffectiveness of recourse procedures in the event of anti-union acts;
- restrictions on the right to collective bargaining in the public sector as a result of various rulings by the Constitutional Chamber of the Supreme Court;
- the subjection of collective bargaining in the public sector to criteria of proportionality and rationality in accordance with the case law of the Constitutional Chamber, which has declared unconstitutional certain clauses of collective agreements in the public sector at the request of the public authorities (the Ombudsperson, the Office of the Public Prosecutor) or of a political party;
- the enormous imbalance in the private sector between the number of collective agreements concluded by trade unions and the number of direct agreements concluded by non-unionized workers (the Committee had previously called for an independent investigation into this matter).

The Committee takes note of the Government's statements that: (1) the Government possesses the will and commitment to resolve the problems raised by the Committee of Experts; (2) it had requested the ILO's technical assistance in the hope that this would allow for resolution of the problems mentioned; (3) the efforts of the Government (many of which were tripartite) regarding these problems included the presentation of several legislative proposals to the Legislative Assembly and their reactivation: a draft constitutional amendment concerning article 192, a bill on collective

bargaining in the public sector, and the addition of paragraph 5 to section 12 of the General Law on Public Administration (the three initiatives are intended to strengthen collective bargaining in the public sector); a draft amendment to the chapter on freedom of association in the Labour Code; parliamentary approval of ILO Conventions Nos. 151 and 154; the revision of various sections of the Labour Code, Act No. 2 of 26 October 1943, and sections 10, 15, 16, 17, and 18 of Decree No. 832 of 4 November 1949 and its amendments; a law concerning the reform of the working procedures (aimed at the elimination of delays and introducing the principle of hearings, and the establishment of summary procedures for cases of anti-union discrimination); (4) the Government's efforts also include other types of initiatives, such as the intervention of third parties to defend collective agreements (*coadyuvancia*) in legal actions of unconstitutionality brought in order to annul specific clauses in the said agreements; and the reinforcement of alternative modes of dispute settlement through the Centre for Alternative Settlement of the Ministry of Labour, which has increased the number of persons dealt with in 2005 to 3,329.

The Committee notes that the Government states that the Administrative Directive of 4 May 1991 requires the labour inspectorate to certify that the enterprise concerned does not have a union recognized for bargaining purposes before registering direct agreements with non-unionized workers; however, the Government adds that there were 67 collective agreements in force in the public sector in August 2006 and 13 in the private sector, whereas the number of direct agreements was 69.

The Committee notes the statistics furnished by the Government relating to complaints of anti-union discrimination and observes that, in 2005, the statistics indicate 38 cases.

The Committee stresses that according to the conclusions and the documentation of the High-Level Mission: (1) the problem of the slowness of the procedures, which in cases of anti-union acts translates to a period of at least four years before a final judgement is obtained, is addressed by the proposed reforms to the working procedures submitted to the General Assembly and a draft partial amendment to the Labour Code that strengthens protection against anti-union acts; (2) the problem of the increased number of direct agreements with non-unionized workers in relation to the number of collective agreements will be addressed by an independent expert appointed by the ILO who will undertake an independent inquiry in Costa Rica in February 2007; (3) the problems relating to collective bargaining will be addressed through amendments to the Constitution and the General Law on Public Administration, a bill on collective bargaining in the public sector, and through proposals for parliamentary approval and ratification of Conventions Nos. 151 and 154; (4) the pending proposals will be examined by the Higher Labour Council (a tripartite body for dialogue) with the objective of studying them and providing them with new impetus, through means obtained by consensus; and (5) the Higher Labour Council had asked the Legislative Assembly for the creation of a joint commission, with the technical assistance of the ILO, in order to develop the plan for the reform of the working procedures.

The Committee notes on the other hand that, as concerns the possibility of judicial annulment of clauses in collective agreements in the public sector on the basis of criteria of rationality and proportionality, the Mission explained the principles of the ILO to the different authorities involved in the complaints filed for unconstitutionality regarding these collective agreement clauses. The Committee notes that the relation of votes of the judges of the Constitutional Chamber annulling the clauses of the collective agreements is in development, having passed by a vote by 6 to 1, and 4 to 3, and thus, according to the Government, out of a total of 1,828 clauses, 122 had been contested (6.67 per cent) out of which only 15 were invalidated (0.82 per cent), 31 were deemed constitutional (1.69 per cent) and 76 were unresolved and still pending; according to the Government, the contested clauses precede the decree of 21 May 2001 regulating collective bargaining in the public sector as well as the adequate consideration of the jurisprudence of the Constitutional Chamber, which will obviate new contestations in the future. The Government stresses that when the Constitutional Chamber annulled specific clauses in a collective agreement, it implicitly accepted their constitutionality; a process of collective bargaining within the Ministry of Labour and the committee on politics for collective bargaining envisaged in the decree of 2001 had authorized negotiations with associations of civil servants in the Ministry. The Committee notes that, according to the information provided by the Government, the number of unions, federations and confederations is, respectively, 767, 52, and 9; and that the rate of unionization was over 4.2 per cent in 2005, and at 4.6 per cent in 2006.

The Committee underlines nevertheless that the trade union rights situation remains sensitive. The cases submitted to the Committee on Freedom of Association and the numerous complaints to the Mission demonstrate the persistence of important problems regarding the application of the Convention in matters of anti-union discrimination and collective bargaining, which have given rise to discussions in the Conference Committee on several occasions. The Committee understands the difficulties of employers' and workers' organizations, faced with a lack of political will on the part of preceding governments whose proposals for legal reform were inadequate or lacked sufficient support, in spite of the fact that, in several cases, they were following tripartite agreements. The Committee emphasizes the dangers for the system of labour relations and collective bargaining of the authorities' failure to produce a set of agreements reached through tripartite consensus.

The Committee notes the Government's contacts with certain members of the Legislative Assembly who belong to the largest opposition party and who, according to the report of the High-level Mission, also support the reforms requested by the ILO. The Committee also notes that the bill to reform the working procedures is at the stage of analysis by the Committee on Legal Affairs, and that it includes a process for reactivating other legal reforms.

The Committee expresses the hope that the various legal reforms currently in progress will be adopted in the very near future, and will be in conformity with the Convention. The Committee requests the Government to keep it informed in this regard, and hopes that the political will unequivocally expressed following the High-level Mission will lead to the fuller application of the rights and guarantees contained in the Convention.

Rural Workers' Organisations Convention, 1975 (No. 141) (ratification: 1991)

The Committee notes the Government's report.

The Committee recalls that in its previous observation it asked the Government to supplement the administrative directive issued by the Ministry of Labour on 18 January 1999 with a text that sets out more clearly the right of trade union representatives to have access to farms and plantations and to meet with workers. In this regard, the Committee notes that the Government undertakes to consider the Committee's recommendation. *The Committee urges the Government to take all the necessary measures to guarantee the right of trade union representatives to have access to farms and plantations and to meet with workers, and to provide information, in its next report, on any concrete measures adopted in this respect.*

The Committee also asked the Government to provide information on the complaints received and/or reported by the Ministry of Labour concerning violations of trade union rights in the agricultural sector, and particularly with regard to the question of the access of trade union leaders to farms and plantations. In this respect, the Committee notes that, according to the Government, there are no records concerning violations of trade union rights by sector of activity relating to the access of trade union leaders to farms and plantations, but that with the automated labour inspection and management system (SAIL) currently being developed, it will be possible to supply the information on violations. *The Committee hopes that once the new system comes into effect, the Government will be able to provide the information requested.*

Côte d'Ivoire

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee takes notes of the Government's report.

It also notes the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) concerning the application of the Convention. The Committee notes that, according to the ICFTU, since the armed insurrection of 2002 Côte d'Ivoire has been in a state of chaos and those in power are using armed bands to repress demonstrations and attack farm workers; for example, the police used violence to break up a demonstration of public employees organized by the National Union of Public Finance Workers (SINAFIG) on 27 September 2005 to call for the payment of arrears in their entitlements. The Committee expresses its concern at the seriousness of these allegations and points out that there can be a genuinely free and independent trade union movement only in an environment in which basic human rights are observed (see 1994 General Survey on freedom of association and collective bargaining, paragraph 26). *In these circumstances, the Committee requests the Government to take steps to ensure that the right to demonstrate may be freely exercised in Côte d'Ivoire and to send its observations on the ICFTU's comments with its next report.*

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1961)

The Committee notes the Government's report.

1. The Committee also notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006 on the application of the Convention. The Committee notes that the ICFTU refers to the ongoing civil war, the state of chaos and violence in the country and the difficulties in exercising rights of association, organization and collective bargaining, and that it indicates that even though collective agreements have been concluded, their application is arbitrary due to the current instability. The ICFTU also cites anti-union dismissals of the Secretary-General and another three members of the National Union of Employees of SODEFOR (SYNACOS).

2. The Committee expresses its concern in respect of the alleged acts and, in particular, the political situation in the country, which undoubtedly has a negative impact on trade union rights and compliance with collective agreements. The Committee also recalls that *Article 1 of the Convention* guarantees workers adequate protection against acts of anti-union discrimination, including the dismissal of trade union leaders and members.

3. *The Committee asks the Government to take measures to guarantee compliance with the collective agreements that were freely concluded, and to investigate, without delay, the alleged acts of anti-union discrimination and provide the Committee with information in this respect.*

Croatia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1991)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer to issues relating to the application of the Convention in practice (distribution of trade union assets) that are already under examination. The ICFTU also refers, among other matters, to obstacles to the exercise of trade union rights by organizations in the commercial sector. *In this respect, the Committee requests the Government to provide its observations on the comments made by the ICFTU.*

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its comments for the Committee's next session in November–December 2007 on all the matters raised in its previous direct request in 2005 (see 2005 direct request, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1991)

The Committee takes note of the comments of 10 August 2006 of the International Confederation of Free Trade Unions (ICFTU), referring amongst other things to issues of law and practice relating to the Convention which are already under examination. Furthermore, the ICFTU states that: (1) the law allows the substance of a collective agreement in the public sector to be modified for financial reasons and restricts the subjects that can be negotiated in this sector; and (2) the legal system is too slow and inefficient in dealing with cases of anti-union discrimination. *The Committee requests the Government to send its observations on the ICFTU's comments.*

The Committee requests the Government, in the context of the regular reporting cycle, to send its comments for examination at the next session of the Committee, to be held in November–December 2007, on all the issues of law and practice regarding the Convention raised by the Committee in its observation of 2005 (see 2005 observation, 76th Session) which also refer to other comments of the ICFTU.

Cuba

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1952)

The Committee notes the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention. *The Committee requests the Government to send its observations on these matters.*

The Committee requests the Government, in the context of the regular reporting cycle, to send for examination at the Committee's next meeting, to be held in November–December 2007, its comments on all the issues of law and practice raised in the previous observation (see observation 2005, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee notes the observations of 10 August 2006 of the International Confederation of Free Trade Unions (ICFTU) concerning the application of the Convention. *The Committee requests the Government to send its comments on these matters.*

The Committee requests the Government, as part of the regular reporting cycle, to send for examination at the Committee's next session, to be held in November–December 2007, its comments on all the issues of law and practice concerning the Convention raised in its previous observation (see 2005 observation, 76th Session).

Cyprus

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1966)

The Committee notes the comments made by the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, which refer to the possibility of replacing strikers and to the anti-union harassment of a trade union organization. *The Committee requests the Government to send its observations regarding the ICFTU's comments.*

The Committee also requests the Government to provide, in accordance with the regular reporting cycle and in time for the Committee's next session in November–December 2007, its observations on the legislative matters mentioned in the Committee's 2005 observation (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee takes note of the comments of 10 August 2006 of the International Confederation of Free Trade Unions (ICFTU), referring to acts of interference in trade unions by some employers, including the establishment of parallel organizations, and to inadequate and insufficiently dissuasive legal protection against acts of anti-union discrimination.

The Committee requests the Government to send its comments on these matters.

Czech Republic

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1993)

1. The Committee notes the Government's observations to the comments of the International Confederation of Free Trade Unions (ICFTU) dated 31 August 2005, indicating that the information provided by the ICFTU on limitations regarding collective bargaining in the public sector is basically correct but misunderstands the national situation. Moreover, the Committee notes that the Government confirms the factual information provided by the ICFTU about four cases of violations in 2004 concerning anti-union discrimination and indicates that, while one of the cases was resolved satisfactorily without the need of intervention from responsible inspection bodies, other companies mentioned remain under close supervision of the labour inspectorate, with extraordinary controls scheduled to ensure the compliance with national labour legislation.

The Committee notes the comments on the application of the Convention submitted by the ICFTU of 10 August 2006, mainly concerning issues already raised, as well as the observations of the Government. *The Committee requests the Government to send its comments to the 2006 observations of the ICFTU and to keep it informed on the developments concerning the proposal of a new Labour Code.*

2. The Committee will examine these issues, as well as those raised in its 2005 observation next year, in the context of the regular reporting cycle.

Democratic Republic of the Congo

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2001)

The Committee notes the information contained in the Government's report.

It also notes the comments of the International Confederation of Free Trade Unions (ICFTU), dated 31 August 2006, reporting cases of kidnappings and torture, threats, intimidation and harassment against trade unions and other violations of trade union rights. *The Committee notes the gravity of the incidents detailed in the information provided by the ICFTU and requests the Government to provide its comments on this subject.*

In its previous comments, the Committee noted the allegations made by the Confederation of Trade Unions of Congo (CSC) also relating to the arrest of trade unionists and threats by the public authorities towards trade union delegates, particularly in public enterprises. The Committee notes that in its report the Government confines itself to indicating that measures have been taken so that such cases do not happen again. *The Committee recalls that in its previous comments it emphasized the need to open an investigation into the issues raised by the CSC concerning the cases of arrest and detention. It urges the Government to keep it informed in this respect and once again draws the Government's attention to the fact that the arrest and detention, even for short periods, of trade union leaders and members engaged in their legitimate trade union activities, without any charges being brought and without a warrant, constitute a grave violation of the principle of freedom of association (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 31).*

Articles 2 and 5 of the Convention. In its previous comments, the Committee noted that section 1 of the Labour Code excludes from its scope of application magistrates, career officials in the state public services governed by the general conditions of service, and career employees and officials of the state public services governed by specific conditions of service. The Committee requested the Government to provide information on the laws and regulations governing magistrates and career employees and officials of the state public services governed by specific conditions of service so as to ascertain their rights relating to the establishment of organizations. It also asked the Government to provide information on the right to establish organizations of career employees in the state public services governed by the general conditions of service. The Committee notes the Government's indication in its report that, by virtue of section 56 of Act No. 81-003 of 17 July 1981 issuing the conditions of service of career members of the state public services, public officials and employees were affiliated automatically to the then UNTZA (Union of Workers of Zaire). While awaiting the amendment of these conditions of service, the Minister of the Public Service issued Order No. CAB.MIN/F.P./105/94 of 13 January 1994 issuing provisional regulations respecting trade union activities within the public administration. This

Order was amended by Order No. CAB.MIN/F.P./0174/96 of 13 September 1996. ***The Committee notes this information. It requests the Government to provide it with copies of the orders referred to and to take the necessary measures to repeal section 56 of the above Act and to ensure the conformity of the legislation with the provisions of the Convention.***

Article 3. In its previous comments, the Committee requested the Government to reinstate trade union elections as soon as possible in enterprises and establishments of all types in the Democratic Republic of the Congo and to keep it informed of the measures adopted in this respect. The Committee notes the Government's indication in its report that in April 2004 it organized an extraordinary session of the National Labour Council during which a recommendation was formulated calling for an order to be issued lifting the suspension of trade union elections, and that the Council adopted a number of texts, including one establishing the electoral schedule (Ministerial Order No. 12/CAB.MIN/TPS/055 of 12 October 2004). The Committee notes that, based on this Order, trade union elections were held throughout the country between 1 February and 30 April 2005 and that, in view of the high number of enterprises and establishments which did not organize elections, this period was extended until 31 July 2005. The results of the trade union elections were announced on 22 November 2005. However, the Committee notes that, according to the ICFTU, exemptions were granted to certain private communication enterprises, which therefore refused to organize elections. ***The Committee requests the Government to take measures to ensure that trade union elections are organized in the near future in the sectors referred to by the ICFTU or, if elections were held, to provide specific information regarding the election results..***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1969)

The Committee notes the Government's report and the replies to some of the comments of the Trade Union Confederation of the Congo (CSC) and the World Confederation of Labour (WCL). It also notes the comments of 10 and 31 August 2006 by the International Confederation of Free Trade Unions (ICFTU).

1. *Comments of the CSC, the WCL and the ICFTU.* The Committee notes with regret that the Government has still not answered the comments of the ICFTU, or all the comments of the CSC and the WCL of 23 August 2005 concerning: (1) acts of discrimination in private enterprises (including threats of dismissal to union members despite the fact that section 234 of the Labour Code prohibit acts of anti-union discrimination); (2) the existence of many unions established and financed by employers; and (3) failure to comply with collective agreements. ***The Committee requests the Government once again to hold an independent inquiry into these allegations and to keep the Committee informed.***

2. *Article 2 of the Convention. Protection against acts of interference.* The Committee notes that, according to the Government, the National Labour Council has not yet adopted the draft order prohibiting acts of interference. The Committee points out that, although section 235 of the new Labour Code prohibits all acts of interference by organizations of employers and workers in each others' affairs, section 236 provides that acts of interference must be defined more closely. ***The Committee once again requests the Government to send a copy of the abovementioned order as soon as its is adopted.***

3. *Article 6. Collective bargaining in the public sector.* The Committee noted previously that section 1 of the Labour Code expressly excludes from the Code career members of state public services who are governed by the general conditions of service (Act No. 81-003 of 17 July 1981 issuing the conditions of service of career members of state public services) and career employees and officials of state public services who are governed by specific conditions of service. In its comments of 31 May 2004, the CSC reported that measures were under way to establish mechanisms for the promotion of collective bargaining in the public sector. The Committee takes note of the Government's reply concerning the right of public employees not engaged in the administration of the State to collective bargaining, in particular: (1) the agreement of 11 September 1999 on basic wages concluded by the Government and the public administration unions at a joint committee meeting; (2) the "social contract for innovation" of 12 February 2004 concluded by the Government and the public administration unions; and (3) the agreement concluded by the Government and the public administration unions following a strike by SYECO and SYNECAT in 2005. The Committee infers from the above that, in practice, there are wage negotiations and agreements in the public sector, and notes that Act No. 81-003 of 17 July 1981 expressly provides for the creation of institutions ensuring the representation of personnel. The Committee points out that any collective bargaining should be able to cover all working conditions and, in view of the ICFTU's most recent comments in which the organization alleges that the Government establishes wages by decree and disregards negotiated agreements, ***the Committee invites the Government to take steps to ensure that the legislation regulates this right for public servants not engaged in the administration of the State, established in Articles 4 and 6 of the Convention.***

Denmark

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1951)

The Committee takes note of the Government's report. The Committee notes the comments of the Danish Confederation of Trade Unions (LO), the United Federation of Danish Workers (3F) and the Confederation of Danish Employers (DA), attached to the Government's report.

The Committee recalls that, in its previous observations, it requested the Government to indicate in its next report the measures taken to ensure that Danish trade unions may represent all their members – residents and non-residents employed on ships sailing under the Danish flag – without any interference from the public authorities, in accordance with *Articles 3 and 10 of the Convention* and whether, in particular, these unions may freely represent seafarers who are not Danish residents in respect of their individual grievances. ***Noting that the Government does not provide information in this respect, the Committee once again requests the Government to provide it in its next report.***

The Committee deals with the other issues raised by the LO and the 3F connected to this point in its observation on the application of Convention No. 98.

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

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1955)

The Committee takes note of the Government's report.

1. *Article 4 of the Convention.* In its previous comments, the Committee had noted that section 10 of Act No. 408 – the Danish International Ships Register Act (DIS) – has the effect of, on the one hand, restricting the scope of negotiable issues by Danish trade unions by excluding from their bargaining power seafarers working on ships under the Danish flag who are not Danish residents and, on the other hand, preventing these seafarers from freely choosing the organization they wish to represent their interests in the collective bargaining process.

The Committee notes the indications in the Government's report that the framework agreement between the social partners – the agreements on mutual information, coordination and cooperation concerning DIS ships, concluded since 1997 – has been prolonged to 31 December 2007. The Government indicates that this prolongation has taken the form of two agreements of 16 January 2004 (collective agreement with protocol attached) and of 15 December 2005 (collective agreement with protocol incorporated). The Government indicates in its report that two unions representing seafarers of a lower rank have wished not to be parties to the agreements: the United Federation of Danish Workers (3F) and its branch organization, the Union of Danish Seafarers, and the Union of Restaurant Workers (RBF) which has from 1 July 2006 been part of 3F.

The Government indicates that the agreements still deal with the conditions for seafarers and contain objectives concerning employment of Danish seafarers at an internationally competitive level, training of Danish seafarers and coverage of collective agreements between Danish shipowners and foreign unions, etc. The Committee notes, as it had noted in its 2003 observation, that these agreements confirm the right to enter into collective agreements with foreign organizations, in accordance with Act No. 408, and that foreign organizations have a right to be represented in negotiations with shipowners/organizations of shipowners with a view to ensuring that a negotiated result is in accordance with an internationally accepted level in terms of international standards for pay and working conditions. The Danish contracting parties may also at request continue to represent a foreign organization.

According to the Government's report, the 2004 agreement between the social partners and the attached protocol also imply a continuance of special provisions which ensure in greater detail that conclusion of a collective or individual agreement with foreign seafarers without Danish residence is at an internationally acceptable level. The 2004 protocol thus stipulates minimum standards that must be included in collective agreements concluded with foreign trade unions in relation to, for instance, pay, working time, period of service on board, repatriation, sickness, etc., safety and health, holiday and complaint procedures. In order to ensure that the Danish contracting parties can represent a foreign trade union, the 2004 protocol has been extended with a provision to the effect that foreign seafarers on board DIS ships may hold double membership, for example, be a member of one of the Danish unions party to the agreement and be, at the same time, a member of a trade union in the home country. These provisions have been incorporated in the agreement of 15 December 2005.

The Committee takes note of the Government's indication that, if Denmark is to maintain a merchant fleet with quality ships that can compete internationally, there is a continuous need to ensure that DIS constantly constitutes an attractive and competitive ships' register.

The Committee also takes note of the communications of the Danish Confederation of Trade Unions (LO), the 3F and the Confederation of Danish Employers (DA), attached to the Government's report. The 3F indicates that all Danish seafarers' organizations agree that paragraph 10 of the DIS Act should be amended and that the contact committee agreement does not exist because of the DIS Act but, in spite of, the Act, and that it presupposes that participating unions accept the shipowners' rights under the Act; it therefore cannot take the place of necessary amendments to the Act with a view to respecting Conventions Nos. 87 and 98. The Committee notes that 3F indicates that neither 3F nor RBF are part of the agreements and that, according to 3F, the present system privileges the number of unions and not their representativity.

The Committee welcomes the renewal of the agreements between the social partners and the adoption of the 2004 protocol, and, in particular, the new provision to which the Government has referred, but observes that the legislative aspect of the matter has not been resolved and that two trade union organizations have again decided not to be bound by the new agreements. The Committee underlines that section 10 of Act No. 408 has the effect of restricting the activities of Danish trade unions by prohibiting them from representing, in the collective bargaining process, those of their members

who are not considered as residents in Denmark. *Taking due note of the figures presented by the Government concerning the Danish shipping industry, and, in particular, that as of 30 September 2005, out of a total of 8,714 seafarers, 3,042 were foreigners and, stressing that this issue has been examined since 1989, the Committee requests, once again, the Government to indicate in its next report the measures taken or envisaged to amend section 10 of Act No. 408 so that Danish trade unions may freely represent all their members – Danish residents and non-residents – working on ships sailing under the Danish flag in the collective bargaining process, in conformity with Article 4 of the Convention.*

2. *Collective bargaining rights of majority organizations.* This issue relates to the application of section 12 of the Conciliation Act and has been raised following the examination by the Committee on Freedom of Association in Case No. 1971 in 1999. Section 12 makes it possible for an overall draft settlement, made by the Public Conciliator and sent out for ballot, to cover collective agreements involving an entire sector of activity, even if the organization representing most of the workers in that sector rejects the overall draft settlement. In its previous comments, the Committee has requested the Government to review the legislation, in consultation with the social partners, and to keep it informed of these consultations.

In its report, the Government indicates that the central organizations, LO and DA, have discussed the rules on the linking of agreements of different occupational sectors and are of the opinion that section 12 should be seen in the light of the wording of *Article 4* of the Convention and that the conciliation service must be said to be “a machinery for voluntary negotiation” as one of its most important purposes is to offer independent assistance in connection with the renewal of collective agreements and recommend concessions which seem appropriate for a peaceful settlement of a dispute. According to the Government’s report, the opinion of the central organizations is underpinned by the fact that it is often a judge who exercises the function, that conciliators are not subject to instructions from the Government, and no financial considerations are taken in connection with submissions of compromise proposals. The Government indicates that the central organizations find that the conciliation service cannot be said to be an element in the general exercise of public powers. The Committee notes that, the Government adds in its report, that section 12 does not bar the social partners from negotiating and exerting their influence. All organizations negotiate the renewal of their own agreements and a compromise proposal cannot be made by the Public Conciliator until all bargaining possibilities have been exhausted. The individual member is guaranteed influence in that the compromise is sent out for ballot and the linking rule does not mean that the collective agreement will apply to the entire sector; it is thus not a matter of an erga omnes principle. The adoption of a compromise proposal does not mean that the agreements concluded lapse but, on the contrary, that they could be individually maintained. The rules serve the purpose of avoiding that a number of occupational fields will become involved in a dispute because a single field that constitutes a minority – maybe even a very small minority – is, for some reason or other, dissatisfied with the compromise result and has rejected the proposal. The Government stresses that the linking rule is a necessary element of the special organizational structure of the Danish labour market that is characterized by many different agreements in the same enterprise and for the same occupation. On the one hand, it is thus not a matter of a system based on industrial unions but, on the other hand, the agreements for the same occupational field are, typically, negotiated together and at the same time. It is important to stress that a change in this generally well-functioning state of law would require basic changes in the Danish union and bargaining structures; changes that are not wished by any of the parties.

While taking note of the Government’s arguments, the Committee stresses that section 12 of the Conciliation Act could, in some cases, have the result of excluding the most representative trade union organization from the outcome of the negotiations of collective agreements or from the resolution of a conflict. *The Committee therefore encourages the Government to engage in dialogue with the most representative workers’ and employers’ organizations on this issue in order to find the means to solve it. The Committee requests to be kept informed of any development in this regard. The Committee trusts that every effort will be made to fully ensure the collective bargaining rights of the most representative organizations and the principles of free and voluntary collective bargaining.*

Djibouti

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1978)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 and 31 August 2006, which largely refer to very serious legislative matters and issues relating to the application of the Convention in practice that are already under examination. The ICFTU also indicates that the new Labour Code enacted in January 2006 was not the subject of consultation with the representative organizations of workers and criticizes specific provisions of the Code. The ICFTU further refers to numerous arrests of trade unionists, physical aggression against demonstrators and strikers, raids on the homes of trade unionists, acts of anti-union harassment and the prohibition to hold trade union elections in the national mint. The Committee recalls that the rights of workers’ and employers’ organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for governments to ensure that this principle is respected. *In this connection, the*

Committee requests the Government to provide its comments on all of the serious observations made by the ICFTU, as well as on the issues raised in its 2005 observation.

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its comments for the Committee's next session in November–December 2007 on all the issues raised in its previous observation in 2005 (see 2005 observation, 76th Session). In particular, the Committee will examine, in the context of the regular reporting cycle, the comments made by the ICFTU that the new Labour Code undermines trade union rights.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. *It hopes that the Government will send a report for examination by the Committee at its next session.*

The Committee regrets that the Government has not responded to the comments of 2005 and 2006 by the International Confederation of Free Trade Unions (ICFTU), the Djibouti Labour Union (UDT) and the General Union of Workers of Djibouti (CUGTD) on the application of the Convention. The Committee notes with concern the allegations of dismissals of numerous trade union leaders and members. The above organizations also assert that there have been no consultations on the new Labour Code, which is inconsistent with fundamental ILO principles, particularly freedom of association and collective bargaining.

The Committee requests the Government to order an independent inquiry into the abovementioned dismissals and if it is proved, as alleged, that they were anti-union acts, to secure the reinstatement of the union officials and members in question. Please also keep the Committee informed on this matter.

The Committee will examine the provisions of the new Labour Code next year in its regular examination of government reports.

Dominica

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (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:

The Committee has been referring for a number of years to the need to amend legislation so as to exclude the banana, citrus and coconut industries as well as the port authority, from the schedule of essential services annexed to Act No. 18 of 1986 on industrial relations, which makes it possible to stop a strike in these sectors by compulsory arbitration. The Committee had also noted that sections 59(1)(b) and 61(1)(c) of the Act empowered the Minister to refer disputes to compulsory arbitration if they concerned serious issues in his or her opinion. *The Committee requests the Government to indicate in its next report the progress made in restricting the list of essential services in this respect. The Committee also requests the Government to indicate the measures taken or envisaged to ensure that workers in the banana industry and the port authority may also have recourse to industrial action.* In this respect, the Committee recalls that in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum service in other services which are of public utility rather than impose an outright ban on strikes, which should be limited to essential services in the strict sense of the term (see 1994 General Survey on freedom of association and collective bargaining, paragraph 160).

Finally, concerning the practical application of these provisions, the Committee requests the Government to transmit any available statistical data on the number, content and outcome of disputes which have been referred to compulsory arbitration, because they concerned the banana, citrus and coconut industries, the port authority, or issues considered serious by the Minister.

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

Dominican Republic

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which largely refer to pending issues relating to the legislation and the application of the Convention in practice that are already under examination. The ICFTU also alleges that the administrative authorities have refused to register a trade union and that the police suppressed a demonstration on 1 September 2005 using firearms. *In this respect, while recalling that workers should enjoy the right to peaceful demonstration to defend their occupational interests, the Committee requests the Government to provide its observations on the ICFTU's comments.*

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee's next session in November–December 2007 on all the issues relating to legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
(ratification: 1953)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer, for the most part, to pending legislative issues and issues relating to the application of the Convention in practice which are already being examined. Moreover, the ICFTU cites the dismissal of all the founding members of a trade union which the administrative authority had refused to register. *In this respect, the Committee asks the Government to send its observations regarding the ICFTU's allegations.*

The Committee also asks the Government to communicate, in accordance with the regular reporting cycle and in time for its next meeting in November–December 2007, its observations on all the legislative issues and issues relating to the application of the Convention in practice that were mentioned in the Committee's previous observation in 2005 (see 2005 observation, 76th Session).

Ecuador

Freedom of Association and Protection of the Right to Organise
Convention, 1948 (No. 87) (ratification: 1967)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which essentially refer to issues of a legislative nature that are already under examination. The ICFTU also indicates that workers in service enterprises and with short-term contracts do not benefit from the guarantees set out in the Convention, and refers to difficulties in exercising the right to organize in the flower-growing sector and to the arrest of trade union leaders in the banana sector. *In this respect, the Committee requests the Government to provide its observations in relation to the ICFTU's comments.*

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee's next session in November–December 2007 on all the issues relating to legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
(ratification: 1959)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer, in part, to outstanding legislative issues on the application of the Convention that are now being examined. Moreover, the ICFTU indicates the lack of collective bargaining rights of subcontracted or outsourced workers, the use of “blacklists” in the province of Los Ríos, and anti-union dismissals. *In this regard, the Committee asks the Government to send its observations concerning the ICFTU's comments.*

Moreover, the Committee requests the Government to communicate, in accordance with the regular reporting cycle and in time for the Committee's next session in November–December 2007, its observations on all the legislative issues, and the issues relating to the application of the Convention in practice mentioned in its previous observation in 2005 (see 2005 observation, 76th Session).

Egypt

Freedom of Association and Protection of the Right to Organise
Convention, 1948 (No. 87) (ratification: 1957)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer largely to pending issues relating to the legislation and the application of the Convention in practice that are already under examination. The Committee notes the recent communication of the Government which replies to the ICFTU's comments.

The Committee will examine the ICFTU's comments and the Government's reply at its next session and requests the Government, in the context of the regular reporting cycle, to provide its observations for the November–December 2007 session on all the issues relating to the legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1954)

The Committee notes the observations of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU), which refer largely to outstanding issues of law and practice relating to the Convention which are already under examination, and to provisions of the 2002 law on special economic zones exempting investment companies newly established in the zones from the legal provisions on the organization of labour, and to anti-union acts in a number of enterprises in the zones, including pressure on members to leave unions. *The Committee notes the recent reply from the Government which it will examine at its next session.*

The Committee requests the Government, in the context of the regular reporting cycle, to send for examination at the Committee's next session, to be held in November–December 2007, its comments on all the matters of law and practice concerning the Convention raised in the Committee's previous observation (see 2005 observation, 76th Session).

El Salvador

Rural Workers' Organisations Convention, 1975 (No. 141) (ratification: 1995)

The Committee notes the Government's report.

Article 3 of the Convention. In its previous comments, the Committee requested the Government to indicate the number of rural workers' organizations existing and the number of rural workers who are members of both rural organizations and other trade union organizations. In this respect, the Committee notes the Government's indication that the National Department of Social Organizations of the General Directorate of Labour has registered five rural workers' organizations (the Union of Self-Employed Indigenous Rural Workers of El Salvador (INCAS), the Union of Self-Employed Stock-Raising Workers of El Salvador (SITRIAS), the Union of Self-Employed Agricultural Workers of the Canton of Achiotales (SITIACA), the Union of Agricultural Self-Employed Workers of El Salvador (SITRAES) and the Union of Self-Employed Workers of the Communal National Coordinator of Indigenous Persons in El Salvador (CCNIS)), and that the above organizations have a total of 219 worker members.

Article 4. The Committee also requested the Government to provide information on the measures adopted to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers. In this respect, the Committee notes the Government's indication that: the National Department of Social Organizations of the Ministry of Labour and Social Insurance provides advice to workers on the procedures for the registration of trade unions and collective agreements, which have been simplified; a guide will be published containing the requirements and procedures for the establishment of trade unions; and the labour legislation of El Salvador will be disseminated through brochures. Finally, the Government indicates that in the context of the report entitled "The Labour Dimension in Central America and the Dominican Republic", the importance is acknowledged of strengthening and protecting collective labour rights, particularly in relation to anti-trade union discrimination, and of facilitating the establishment of trade unions. *The Committee requests the Government to continue taking the necessary measures to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers.*

Equatorial Guinea

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2001)

The Committee notes the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU), referring among other things to the administrative authority's refusal to register a number of trade unions. The Committee also notes a case examined by the Committee on Freedom of Association, which likewise concerns the administrative authority's refusal to register two trade union organizations (see 340th Report of the Committee on Freedom of Association, Case No. 2431). *The Committee expresses its concern at the ICFTU's allegations and requests the Government to send its comments on them.*

In its last observation, the Committee noted that, due to the lack of a trade union tradition, there were still no workers' unions operating in the country. *The Committee again asks the Government, in the context of the regular reporting cycle, to send information on the measures taken or envisaged to ensure that workers are able to establish the organizations they deem appropriate.*

The Committee points out to the Government that it may seek technical assistance from the Office in solving these serious problems.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2001)

1. *Article 4 of the Convention. Collective bargaining.* The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006 which, in particular, allege that the authorities and

employers determine wages without consulting workers or engaging in negotiations. The Committee considers that the comments are related to its previous observation in which it noted the absence of trade unions and recalled that the existence of trade unions is a prerequisite for the application of the provisions of *Article 4* of the Convention. ***Under these conditions, the Committee once again requests the Government to adopt the necessary measures without delay to create appropriate conditions for the establishment of trade unions and to provide information on any measure adopted in this regard in the context of the regular reporting cycle.***

2. The Committee also recalls that in its previous observation it referred to section 6 of Act No. 12/1992 of 1 October 1992 on trade unions and collective labour relations, which provides that the organization of officials of the public administration shall be regulated by a special Act and that the Act has not yet been adopted. ***The Committee requests the Government, in the context of the regular reporting cycle, to indicate whether the special Act has been adopted and ensures the right to organize of public officials, and to provide detailed information on the application of the Convention with regard to public officials who are not engaged in the administration of the State.***

Eritrea

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer in a general manner to the pending legislative issues relating to the application of the Convention which are now being examined. The ICFTU also indicates the arrest and disappearance of trade union leaders and the arrest and imprisonment without charge of an employers' leader. ***In this regard, while recalling that the rights of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against these organizations' leaders and members and that it is for governments to ensure that this principle is respected, the Committee asks the Government to provide its observations relating to the comments made by the ICFTU.***

Moreover, the Committee requests the Government to provide, in time for its next session in November–December 2007 and in accordance with the regular reporting cycle, its observations on all the legislative issues and issues relating to the application of the Convention in practice which were mentioned in the Committee's previous direct request in 2005 (see 2005 direct request, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer, in part, to outstanding legislative issues, and issues relating to the application of the Convention in practice that are now being examined. ***In this regard, the Committee asks the Government to send its observations concerning the ICFTU's comments.***

Moreover, the Committee requests the Government to communicate, in accordance with the regular reporting cycle and in time for the Committee's next session in November–December 2007, its observations on all the legislative issues and issues relating to the application of the Convention in practice mentioned in its previous observation in 2005 (see 2005 observation, 76th Session).

Estonia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1994)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer to legislative issues and issues relating to the application in practice of various provisions of the Convention, including restrictions on the right to strike of public servants who do not exercise authority on behalf of the State. The Committee notes the recent communication of the Government which replies to the ICFTU's comments. The Committee will examine the ICFTU's comments and the Government's reply at its next session and ***requests the Government, in the context of the regular reporting cycle, to provide its observations for the November–December 2007 session on all the issues mentioned in the Committee's previous direct request in 2005 (see 2005 direct request, 76th Session).***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1994)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006 and of the recent reply from the Government to these comments, which refer to legislative issues, and issues relating to the application in practice of the various provisions of the Convention. ***The Committee will examine these matters at its next session.***

Ethiopia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1963)

The Committee takes note of the comments of the International Confederation of Free Trade Unions (ICFTU) dated 12 July 2006 on the application of the Convention as well as the Government's reply thereto. The ICFTU's comments concern some issues raised in the Committee's previous observation (limitation on the right to organize of certain categories of workers – employees of state administration, judges and prosecutors – limitations on the right to strike and possible arbitrary dissolution of trade unions) and allegations that in particular, concern violations of teachers' trade union rights (limitations on the right to organize, creation of a union controlled by the Government, closing and occupation of offices and freezing of financial assets, sentencing and detention of members). The Committee also takes note of the comments dated 31 August 2006 of Educational International (EI) on violations of teachers' trade union rights already mentioned by the ICFTU.

Concerning the alleged limitations on the right of teachers to organize, the Committee notes the Government's reply to the effect that teachers in the private sector have the right to form trade unions under Labour Proclamation No. 377/2003 and that teachers employed in the public sector are also guaranteed the right to form professional associations (according to the Government, there are two such associations in Ethiopia) and that the Civil Agency of the Federal Democratic Republic of Ethiopia is still conducting further study as to how public servants in general as state employees can form unions. ***Recalling that the only exceptions authorized by Convention No. 87 are the members of the police and armed forces, the Committee requests the Government to take all the necessary measures to guarantee that the right to organize of the abovementioned categories of workers is ensured in law and in practice.***

Concerning the alleged detention of Mr Kebede, chair of the Addis Ababa's branch of the Ethiopian Teachers' Association (ETA), on 1 November 2005, the Committee notes the Government's statement that his arrest has no relation whatsoever with his affiliation with the ETA as he was detained by a court order for his alleged involvement in the street violence organized by the opposition party, the Coalition For Unity and Democracy (CUD) after the May national elections in Ethiopia, and charged with two offences (outrage against the constitutional order and attack on the political and territorial integrity of the State). ***The Committee requests the Government to send its observations on the alleged occupation by the police of ETA's headquarters on the same day and a copy of the judgement rendered against Mr Kebede.***

In respect to the allegation concerning the Government's creation and control of a teachers' trade union (according to the Government, called the Confederation of Ethiopian Trade Unions – CETU), the Committee notes the Government's statement that this is a patently false and defamatory allegation. The Government underscores that CETU is an independent organization, which is established based on ILO Conventions, the Constitution, the labour law and other related rules and regulations, and has its own constitution and organizational modalities to perform its tasks free of government interference. ***In this respect, the Committee requests the Government to send its observations on the allegation that ETA's union dues are being redirected to a controlled trade union.***

Finally, the Committee notes the Government's statement concerning the other ICFTU allegations that replies have been given to most of them and that others are out of date in the sense that files concerning them have been closed. ***In this respect, the Committee requests the Government to send its observations regarding the following ICFTU and EI concrete comments: (1) ETA's offices closed, documents and electronic equipment confiscated from offices in 2005 and its financial assets frozen since 1993; (2) nine teachers from the ETA's Addis Ababa branch arrested and two badly beaten on 25 September 2005 following a meeting to discuss preparations for World Teachers' Day; (3) approximately 24 teachers/ETA members detained in November 2005; (4) charges including conspiracy, armed insurrection, high treason and genocide brought against ETA's leaders carrying sentences ranging from three years to the death penalty; (5) 58 teachers and ETA members believed to be still in prison, denied release on bail and prevented from meeting their lawyers at the end of 2005. Furthermore, the Committee requests the Government to send its response to the Committee's previous observation (see 2005 observation, 76th Session) for examination during the regular reporting cycle.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1963)

1. *Comments of Education International.* The Committee takes note of the comments dated 31 August 2006 of Education International (EI) concerning specific violations of the Convention regarding teachers' trade union rights in the public sector, including interference in trade union activities of the Ethiopian Teachers Association (ETA) by way of creation and control by the Government of a teachers' trade union, and the harassment of teachers (dismissals, transfers, etc.) in connection with their union affiliation. ***While expressing its concern regarding these allegations, the Committee requests the Government to provide detailed observations on EI's allegations, taking into account that the Government only referred in its report to the competence of labour inspectors to put before the courts cases of interference in trade union activities.***

2. *Article 4 of the Convention. Collective bargaining.* The Committee notes that sub-article (6) of article 130 of the Labour Proclamation has been amended by Proclamation No. 494/2006 which provides that, if the negotiation to amend or replace a collective agreement is not finalized within three months from the expiry date of the collective agreement, the provisions of the collective agreement relating to wages and other benefits shall cease to be effective. The Committee considers, on the one hand, that the fact that the parties do not reach an agreement on salaries and other benefits should not result in the annulment of other negotiated clauses. On the other hand, the Committee considers that this provision does not take into account the reasons behind a failure to finalize a new agreement nor the eventual responsibility of one or the other party for this failure and could therefore in some cases not be conducive to promoting collective bargaining. ***The Committee requests the Government to take measures in order to amend the legislation and bring it into conformity with the Convention.***

3. The Committee also takes note of the draft Regulation concerning employment relations established by religious or charity organizations of 2006. Article 4 of this draft provides that “employment relation established by religious or charity organisations with a person for administrative or charity work shall not be obliged to enter into collective bargain concerning salary increment, fringe benefits, bonus and similar other benefits which may incur financial expense upon the organisation”. The Committee recalls that collective bargaining should be promoted also in respect to these categories of workers in accordance with the Convention and that no restrictions on the scope of bargaining should be imposed on these categories of workers. ***The Committee requests the Government to amend this draft in order to bring it into conformity with the Convention.***

The Committee will examine the other questions raised in its previous observation next year, during the regular reporting cycle.

Fiji

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2002)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which largely refer to pending issues relating to the legislation and the application of the Convention in practice that are already under examination. The ICFTU also alleges restrictions in practice on the rights set out in the Convention, and particularly failure to comply with judicial orders requiring employers to recognize trade unions, illegal and intimidatory practices to prevent the right to organize in export processing zones and the declaration by the administrative authorities that strikes are illegal. The Committee takes note of the recent communication of the Government containing its observations on these comments.

The Committee will examine the comments of the ICFTU, with the Government’s observations to these comments, at its next meeting and requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee’s next session (November–December 2007) on all of the matters relating to legislation and the application of the Convention in practice raised in its previous direct request in 2005 (see 2005 direct request, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1974)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer largely to pending issues relating to the legislation and the application of the Convention in practice that are already under examination. The ICFTU’s allegations also relate to restrictions in practice on the rights set out in the various provisions of the Convention and the difficulty of concluding collective agreements in export processing zones. ***In this regard, the Committee notes that the Government’s observations have been recently received and the Committee will examine them at its next session.***

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee’s next session in November–December 2007 on all the issues relating to legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Gabon

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer largely to pending issues relating to the legislation and the application of the Convention in practice that are already under examination, as well as restrictions on trade union rights, and particularly on the exercise of the right to

strike and acts of violence by the police against trade unionists. The Committee takes note of a recent communication from the Government containing its observations on these comments.

The Committee will examine the comments of the ICFTU with the Government's observations to these comments at its next session and requests the Government, in the context of the regular reporting cycle, to provide its observations for this session (November–December 2007) on all the matters relating to the legislation and the application of the Convention in practice raised in its previous direct request in 2005 (see 2005 direct request, 76th Session).

Gambia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

The Committee notes the Government's report.

The Committee further notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 10 August 2006 concerning issues already raised.

Scope of the Convention. The Committee notes that Labour Act No. 12 of 1990 (the Act) does not apply to workers engaged in civil service, prison service and domestic service. The Committee notes that according to the Government the new labour bill empowers the Secretary of State to extend the scope of the bill to cover any category of worker excluded. ***While recalling that only the armed forces, the police and public servants engaged in the administration of the State can be excluded from the guarantees of the Convention, the Committee requests the Government to guarantee that the rights afforded by the Convention are ensured for the abovementioned categories of worker.***

Article 1 of the Convention. Protection against acts of anti-union discrimination. The Committee had noted that section 75 of the Act provides that any term or condition in a contract of employment, whether express or implied, prohibiting an employee from becoming or remaining a member of any trade union, or purporting to subject the employee to any penalty, loss of benefit or detriment by reason of such membership, shall be null and void. However, according to section 73(1), not all workers are entitled to a written contract of employment, this type of contract being reserved to specific cases of employment, in particular, fixed-term employment of six months or more. ***The Committee requests the Government to indicate the way in which workers are guaranteed protection against acts of anti-union discrimination in cases where the employment relationship is not based on a written contract of employment.***

The Committee had noted that Part IX, sections 109–125 of the Bill by which the Act was introduced to Parliament contained provisions on protection against dismissal by reason of union membership or because of participation in trade union activities, including strikes, and provided for compensation and reinstatement as remedies for such acts. However, the corresponding provisions are missing from the copy of the Labour Act adopted by Parliament, which the Committee has at its disposal. ***The Committee therefore requests the Government to transmit a complete copy of the Act.***

Article 2. Protection against acts of interference. The Committee had noted that there is no provision in the Act concerning protection against acts of interference by workers' and employers' organizations (or their agents) in each other's affairs. The Committee notes that according to the Government the new labour bill provides protection against acts of interference. ***The Committee requests the Government to communicate the text of any provisions of the new labour bill that prohibit acts of interference (such as the establishment or financial support of workers' organizations with the object of placing them under the control of employers or employers' organizations) and guarantee sufficiently rapid appeal procedures and dissuasive sanctions against such acts.***

Article 4. Measures to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or their organizations and workers' organizations. The Committee had observed that section 161 of the Act provides that voluntary agreements may be registered by the Commissioner upon the application of both parties to the agreement. Noting that the wording of this section seems to allow discretionary power to deny registration, the Committee recalls that the registration of the collective agreement can be refused only if it has a procedural flaw or does not conform to the minimum standards laid down by general labour law. The Committee notes that according to the Government the new labour bill does not give discretionary power to the Commissioner. ***It requests the Government to transmit a copy of the relevant provisions.***

The Committee had noted that, according to section 168, in order to be recognized as a sole bargaining agent, a trade union must be registered as "efficient", within the meaning of sections 128(5) and 142 of the Act (i.e. the Registrar should be satisfied that the trade union is and is likely to remain independent and is capable of efficiently representing its members and conducting the trade union affairs). ***Considering that provisions which allow such great discretionary power to the Registrar are contrary to the principle of the autonomy of the parties in collective bargaining and therefore are not in conformity with the Convention, the Committee requests the Government to repeal or amend sections 128(5), 142 and 168, accordingly.***

The Committee also noted that according to section 168, in order to be recognized as a sole bargaining agent, a trade union should represent a certain percentage of employees under a contract of service (30 per cent in the case of a single union and at least 45 per cent if the establishment in question employs at least 100 people; in this case, the bargaining agent could be composed of two or more trade unions). ***The Committee recalls that where, under a system for***

nominating an exclusive bargaining agent, there is no union representing the required percentage to be so designated, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members and requests the Government to take the necessary measures in order to bring the legislation into conformity with the Convention.

The Committee further noted that section 168(6) provides that an employer may, if he or she wishes, organize a secret ballot upon receiving an application to establish a sole bargaining agent. The Committee considers that the organization of a ballot for determining representativeness should be carried out by the authorities or an independent party upon a request presented by a union. While taking note of the Government's statement according to which the appropriate authorities will be informed of the Committee's comments in order to make the necessary changes, *the Committee requests the Government to amend section 168(6) in accordance with the above.*

The Committee had noted that under section 167, a work committee could be set up at an establishment where at least 100 employees are employed. The Committee notes that the Government has communicated the text of the relevant provisions of the new labour bill. *The Committee requests the Government to clarify the role of such committees and more specifically to indicate: (1) whether trade union representatives can be elected to such committees; and (2) whether these committees can negotiate and conclude collective agreements even when a union exists in the undertaking.*

Article 6. The Committee had requested the Government to indicate whether public servants not engaged in the administration of the State are granted collective bargaining rights and to specify the relevant legislative provisions. The Committee notes that according to the ICFTU, these categories of worker do not have the right to form unions and therefore do not have the right to collective bargaining. *The Committee notes that according to the Government the relevant authorities will be advised to grant the right to collective bargaining to civil servants in the new labour bill.*

The Committee trusts that the Government will take all necessary steps to bring its national law into conformity with the Convention and requests the Government to keep it informed of any measures taken or envisaged in this respect, in particular those concerning the adoption of the new labour bill.

Georgia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1999)

The Committee takes note of the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006 referring to the issues previously raised by the Committee and alleging that the draft Labour Code was prepared without prior consultation with trade unions. *The Committee requests the Government to provide its observations thereon.*

The Committee notes that the draft Labour Code referred to by the ICFTU was recently adopted. It appears that, with the adoption of the Labour Code, the Law on Trade Unions will remain in force, and the Law on Collective Contracts and Agreements of 1997 and the Law on Collective Labour Disputes of 1998 will be repealed. Noting that the Labour Code contains no sections concerning the freedom of association generally and that the Law on Trade Unions does not regulate all aspects of freedom of association, it appears that by repealing the abovementioned legislation, there are numerous aspects of freedom of association that will not be sufficiently protected in law (such as the right of workers and employers to establish and join organizations, the rights of such organizations, the procedure for calling a strike and other strike-related issues). The Committee recalls that *Article 1 of the Convention* provides that "Each Member of the International Labour Organization for which this Convention is in force undertakes to give effect to [its] provisions". *It therefore requests the Government to indicate whether it has an intention to adopt additional legislation to this end.* With regard to the specific provisions of the Labour Code, the Committee is addressing a request directly to the Government.

The Committee requests the Government to provide with its next report the information on the pending questions addressed in the Committee's previous observation (see 2005 observation, 76th Session) and direct request (see 2005 direct request, 76th Session), which the Committee will examine under the regular reporting cycle in 2007.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1993)

The Committee takes note of the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 10 August 2006 alleging that the draft Labour Code, which would undermine trade union rights, was prepared without prior consultation with trade unions. *The Committee requests the Government to provide its observations thereon.*

The Committee notes that the draft Labour Code referred to by the ICFTU was recently adopted. The Committee further notes that with the adoption of the Code, while the Law on Trade Unions will remain in force, the Law on Collective Contracts and Agreements of 1997 and the Law on Collective Labour Disputes of 1998 will be repealed.

Article 4 of the Convention. The Committee notes that according to section 13 on the internal labour regulations, the employer (unilaterally) is authorized to specify the duration of a business week, the daily schedule, shifts, the duration of breaks, the time and place of remuneration payment, the duration of and the procedure for granting a leave and unpaid leave, the rules for complying with labour conditions, the type and the procedure for work-related incentives and responsibilities, the procedures for consideration of complaints/applications and other special rules subject to the specifics of the business of the organization. The Committee further notes Chapter XII of the Code (sections 41–43), which concerns collective labour relations. Under section 41(1), “a collective contract shall be concluded between an employer and two or more employees”. According to section 42(1) and (3), for the purposes of concluding, changing or terminating a collective contract, or for the purpose of protecting the employees’ rights, the unions of employees act through their representatives, defined as any physical person. Furthermore, in accordance with section 43(2), an employee may conclude individual and/or several collective contracts with one employer. Pursuant to subsections (4) and (5) of the same section, if one of the parts of the contract is annulled on the initiative of either party, this will cause the termination of labour relations pursuant to the Labour Code; and the existence of collective contracts does not limit the right of the employee or the employer to terminate the contract. The Committee considers that sections 13 and 41–43 read together do not refer to collective agreements in the sense of Convention No. 98, i.e. agreements regulating terms and conditions of employment negotiated between employers or their organizations and workers’ organizations. Moreover, with the Law on Trade Unions containing one general provision on the right of trade unions to collective bargaining, and the Law on Collective Contracts and Agreements repealed, it is not clear how collective bargaining will be regulated. ***Considering that the provisions of the new Labour Code do not appear to promote collective bargaining as called for by Article 4 of the Convention, the Committee requests the Government to take the necessary measures, either by amending the Labour Code or by adopting specific legislation on collective bargaining, so as to ensure the right to bargain collectively enshrined in Article 4 of the Convention. The Committee requests the Government to keep it informed of the measures taken or envisaged in this respect.***

With regard to certain other provisions of the Labour Code, the Committee is addressing a request directly to the Government. ***The Committee requests the Government to provide with its next report the information on the pending questions addressed in the Committee’s previous observation (see 2005 observation, 76th Session) and direct request (see 2005 direct request, 76th Session), which the Committee will examine under the regular reporting cycle in 2007.***

Germany

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer largely to pending issues relating to the legislation and the application of the Convention in practice that are already under examination. The Committee notes the recent communication of the Government which replies to the ICFTU’s comments.

The Committee will examine the ICFTU’s comments and the Government’s reply at its next session and requests the Government, in the context of the regular reporting cycle, to provide its observations for the November–December 2007 session on all the issues relating to the legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1956)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer to issues relating to the application of the Convention in practice that are now being examined. The Committee further notes a recent communication from the Government.

The Committee will examine the comments from the ICFTU and the reply from the Government at its next meeting and it requests the Government to communicate, in accordance with the regular reporting cycle and in time for the Committee’s next session (November–December 2007), its observations on all the legislative issues and issues relating to the application of the Convention in practice mentioned in its previous observation in 2005 (see 2005 observation, 76th Session).

Ghana

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1965)

The Committee notes the Government’s report and the comments submitted by the International Confederation of Free Trade Unions (ICFTU) on 10 August 2006. The ICFTU’s comments refer to matters previously raised by the Committee, as well as to allegations of the police firing shots and tear gas to disperse protesting miners and the dismissal of 17 workers, including five union executives, following a strike. ***The Committee notes the recent communication of the***

Government which replies to the ICFTU's comments. The Committee will examine the ICFTU's comments and the Government's reply at its next session.

In its previous comments the Committee had asked the Government to provide information in its next report on any practical use of the powers to suspend the operation of any law and prohibit public meetings and processions established under the Emergency Powers Act, 1994. The Government indicates in this respect that the Emergency Powers Act, 1994, is applicable only in exceptional cases, where a state of emergency has been declared, and then only for the duration of the state of emergency; the Act is not intended to be of general application, nor is it directed against the activities of workers' organizations. The Committee takes due note of this information.

The Committee is raising other points in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
(ratification: 1959)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, referring to the denial of the right to collective bargaining for workers in the prison services, who are excluded from the right of association in the same way as workers in the intelligence services, and to acts of anti-union discrimination in many companies. *The Committee notes the recent reply from the Government, which will be examined at its next session.*

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee's next session (November–December 2007) on all of the issues relating to legislation and the application of the Convention in practice raised in its previous direct request in 2005 (see 2005 direct request, 76th Session).

Guatemala

Right of Association (Agriculture) Convention, 1921 (No. 11)
(ratification: 1988)

The Committee notes the Government's report.

The Committee recalls that its previous comments referred to the prohibition of strikes and work stoppages by agricultural workers during the harvest, with a few exceptions (sections 243(a) and 249 of the 1947 Labour Code, as amended in 1992). In this respect, the Committee notes with satisfaction Decree No. 18-2001, section 13 of which amends the abovementioned sections of the Labour Code, thus lifting this prohibition.

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1952)

The Committee notes the Government's reply to the comments made by the International Confederation of Free Trade Unions (ICFTU) of 31 August 2005, and the Trade Union Confederation of Guatemala (UNSITRAGUA), of 26 August 2006, relating to matters concerning the legislation and the application of the Convention in practice that are already under examination by the Committee, as well as acts of violence, including murder, death threats and the circulation of blacklists of trade union representatives, the persecution of workers because of the establishment of a trade union, the subcontracting of workers with a view to undermining the union in a banking establishment, and threats and acts of violence against the judicial labour authorities, resulting in a situation of grave impunity and the denial of the right to strike. The Committee observes that these allegations are being examined in the context of Cases Nos. 2017 and 2050, 2241, 2259, 2341 and 2413, which are currently before the Committee on Freedom of Association.

In its previous observation, the Committee noted the comments made by UNSITRAGUA and the National State Union Workers' Federation (FENASTEG) indicating that the Civil Service Bill establishes a percentage that is too high for the establishment of trade unions and restricts the right to strike. In this respect, the Committee notes the Government's indication that the Bill is the subject of consultations with trade union organizations, that it was submitted to the Tripartite Committee on International Labour Affairs and that Congress has met federations and confederations to discuss the matter. *The Committee hopes that the Bill that emerges from the process of consultation will be in full conformity with the provisions of the Convention and it requests the Government to keep it informed of the respective legislative developments. The Committee reminds the Government that the technical assistance of the Office is at its disposal.*

Finally, the Committee requests the Government, in accordance with the regular reporting cycle, to provide its observations for the Committee's next session in November–December 2007 on all the issues relating to the legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1952)***

The Committee notes the Government's report and the discussion held in the Conference Committee on the Application of Standards in June 2006 and in the context of Cases Nos. 2203, 2241, 2295, 2341, 2361, 2413, 2445 and 2482 presently before the Committee on Freedom of Association.

The Committee also notes the reply of the Government to the comments submitted by the Trade Union of Workers of Guatemala (UNSITRAGUA) on 26 August 2005, which the Committee had taken note of in previous comments and which refer principally to matters already raised by the Committee and treated in the cases examined by the Committee on Freedom of Association. In this regard the Committee takes note of the information provided by the Government, according to which UNSITRAGUA had accepted the Government's invitation to present all the complaints submitted to the ILO supervisory bodies, and had presented a list of cases and concerns that will be analysed by the Government.

The Committee takes note of the comments submitted by the International Confederation of Free Trade Unions (ICFTU) on 12 July 2006, which refer to: (1) the climate of violence in which, in certain cases, trade unionists must carry out their union-related activities; (2) the dismissal of workers attempting to organize a union or engage in collective bargaining; (3) the circulation of blacklists; (4) acts of intimidation by employers aimed at trade unionists; (5) the tardiness of the administering of justice; (6) the low number of collective agreements concluded in the *maquila* sector. ***The Committee requests the Government to submit its observations thereon.***

The Committee notes the general declarations of the Government, according to which efforts have been taken at the institutional level to ensure respect, administratively and legislatively, of the Committee's observations. The Government emphasizes that the dimension of work is essential for the successful application of the Free Trade Agreement between Central America, the Dominican Republic and the United States, which entered into force in April 2005. In the context of this treaty a document entitled "Building upon progress: Reinforcing respect and capacities" was elaborated, which contains recommendations and concrete means to accelerate and improve the respect for labour laws and institutions, and which identifies six areas of priority for action intended to improve the rights of workers and comprised of the strengthening of the judicial system with respect to labour matters and guarantees of protection against discrimination in the workplace. The Government adds that, through the "Comply and Win" plan approved by the Government of the United States and the Ministry of Labour and Social Security, it has committed itself to publicizing and disseminating – by means of print media, radio and the Internet – the Labour Code, the ILO's fundamental Conventions, and the establishment of the office of alternative dispute resolution. Moreover, in this framework, and with the financial support of the US Department of Labor, the ILO Subregional Office for Central America will carry out a project entitled "The strengthening of justice at work in Central America and the Dominican Republic."

The Government adds that the Ministry of Labour and Social Security, through the Unit on International Labour Affairs, had initiated a process of training on the ILO and the State's obligations with respect to ratified Conventions, intended for labour court judges, the appeals chambers of the Supreme Court, the Public Ministry's Special Office on offences against journalists and trade unionists, and other public institutions. The Tripartite Commission, in particular its subcommittee on legal reform, continues to convene periodically in attempting to arrive, through consensus, at a resolution in response to the comments of the Committee of Experts. Further significant accomplishments include: scheduling bimonthly meetings of the tripartite subcommittees on legal reform; developing proposals on the procedures for the adjudication of labour violations; and maintaining constant contact with the Congressional Labour Committee in order to approve proposals formulated on a tripartite basis. The Government had put into motion a rapid response mechanism for cases, in the context of which eight conciliation meetings were held, each one concerning cases of violation of trade union rights. Finally, the Government indicates that the First Vice-Minister of Labour met periodically with representatives of workers' and employers' organizations in order to establish a permanent mechanism for dialogue intended to produce consensus.

The Committee recalls that, for several years, it has raised a number of points concerning the exercise of trade union rights in practice:

Failure to comply with orders to reinstate dismissed trade unionists. The Committee notes that, according to the Government, after having consulted the labour court judgements, it had not found any pending reinstatement orders. It adds however that, before the Chamber of *amparo* (protection of constitutional rights) and Interim Judgements of the Supreme Court, there are actions in *amparo* pending that have prevented the execution of orders to reinstate until a final decision has been rendered.

Tardiness of the procedure to impose penalties for breaches of the labour legislation. In this regard, the Committee notes that, according to the Government, the Special Commission on Reforms in the Legal Sector had rendered a favourable judgement with respect to the reform of 12 articles of the law on *amparos* and their constitutionality, with the goal of accelerating the procedures, obtaining more effective protection of fundamental individual rights, so as to render such protection equal to those afforded other rights to which recourse may be had. The Congress of the Republic had in its third reading approved the discussion and approval of reforms to the law, which was transmitted to the Constitutional Court. The Government adds that, according to the statistical information compiled by the Supreme Court, there are no complaints respecting the tardiness of the procedures for sanctions against violations of trade union rights. The Committee

observes nevertheless that the trade unions had previously drawn attention to the problem of the slowness of the procedures.

Need to promote trade union rights in export processing zones (maquila enterprises). The Committee takes note of the Government's indication that a national political project of consultation is developing that is free to workers wishing to unionize and consists of three phases: (1) the elaboration of educational materials on freedom of association; (2) the training of civil servants in the Labour Ministry on issues concerning collective rights at work and administrative rights; (3) the establishment of free legal counselling services in the central headquarters and regional offices of the Ministry of Labour; (4) the evaluation of the functioning and continuity of the project. The Government adds that since 2003 ten labour inspectors in the *maquila* sector have been trained, and that a special unit is charged with complaints and disputes at work. The Committee also refers to the existence of a conflict prevention body within the *maquila* sector, the principal function of which consists of coordinating the dissemination of information on rights at work to workers, managing directors and middle managers in the *maquila* sector. The Government indicates that, in August 2006, a tripartite seminar was held on association rights on rights at work and trade union rights in the *maquila* sector, with the support of the ILO subregional office. According to the Government, there are actually eight industrial textile unions in the *maquila* sector and, between January and March 2006, two new trade unions have been registered, comprised of 24 and 27 affiliates, respectively.

Numerous anti-union dismissals and violations of collective agreements. In this respect the Committee notes that the Government provides general information on the number of complaints presented and the measures in progress concerning these complaints, in different regions and export processing zones. The Committee also notes the Government's statements, according to which the tripartite commission on international labour affairs had promoted the establishment of a rapid intervention mechanism for complaints relating to trade union rights, in the context of which nine cases were heard in 2005, and four in 2006. Moreover the Government provides information submitted by various labour tribunals demonstrating that, in one tribunal for instance, 241 trials concerning reinstatement, termination of contract and reprisals were in progress. The Committee notes nevertheless that, for example, two complaints concerning anti-union discrimination in the private sector and five in the municipal sector had been submitted to the Sixth Regional Chamber of Quetzaltenango of the Ministry of Labour and Social Security. As concerns the dismissal of trade union officers, the Committee notes that there were 25 complaints in the private sector and 18 in the municipal sector. As concerns the failure to apply collective agreements, there were two complaints in the private and 18 complaints in the municipal sectors. According to the information provided by the tribunals, there were no cases concerning violation of a collective agreement. Finally, there were 16 complaints relating to the export processing zones.

In its previous comments the Committee had noted the comments submitted by several national and international trade union organizations, and had highlighted the very high number of dismissals of trade union officers and the recurring violations of the right to collective bargaining, including in the public sector.

Inadequate guarantees in the procedure for the termination of civil servants (section 79 of the Civil Service Act; section 80 of its implementing regulation; Decree No. 35-96 amending Decree No. 71-68 of the Congress of the Republic and Government Order No. 564-98 of 26 August 1998). As concerns this issue, the Committee notes the Government's indication that the persons affected may submit an administration appeal before the National Chamber of the civil service (articles 79 and 80 of the Law on civil service and its regulation) and may also appeal to the judicial tribunals in conformity with the labour legislation.

Need for the Code of Labour Procedures to be subject to in-depth consultations with the most representative organizations of workers and employers. The Committee notes the indications of the Government, according to which the Code of Labour Procedures is not on the agenda of the tripartite commission on international labour affairs, or that of the tripartite subcommittee on legal reform, and that there exists no will or support from any quarter to propose consultations with the most representative workers' and employers' organizations.

Statistics. The Committee notes the abundant statistical information submitted by the Government concerning complaints in different regions of the country, from 2005 to the beginning of 2006, as well as the complaints arising out of the *maquila* sector from 2004 up to the beginning of 2006.

Generally speaking, the Committee observes that the majority of complaints arise out of the private sector, although the number of complaints in the public sector remains significant. The facts revealed relate principally to: violations of collective agreements; acts of employer interference; acts of anti-union discrimination, particularly in the context of trade union formation; and anti-union dismissals. In the majority of cases, the procedures resulted in conciliations or the withdrawal of the case. The Committee observes that the number of sanctions is very low; in fact, the statistics provided by the Government indicate not one case involving sanctions.

Reform of the Civil Service Bill. As regards the reform of the Civil Service Bill, the Committee notes the Government's statement that it had organized broad consultations with all sectors of society and had sent the draft Bill to Congress in November 2005, however the Congressional labour committee had issued an unfavourable decision regarding the said Bill.

Technical mission. Taking note of the measures adopted by the authorities and the results of the dialogue held in the Tripartite Commission, the Committee reiterates its concern with the persistence of the problems it had been raising

for several years. In this respect, the Committee welcomes the Government's recent acceptance of a technical mission in the country and expresses the firm hope that this would help the Government to take the necessary measures to bring the national legislation into conformity with the requirements of the Convention. The Committee requests the Government to keep it informed in this regard.

Awaiting the result of the mission accepted by the Government, the Committee will not proceed with a detailed examination of the pending issues. The Committee wishes however to refer to the conclusions of the Conference Committee, which requested the Government to take the necessary measures without delay to bring the law and practice into full conformity with the Convention in the near future, in both the public and private sectors, and urged the Government to adopt further measures for the effective protection of the rights set out in the Convention for workers in export processing zones.

The Committee considers that the Government should provide additional information to the technical mission and the Committee on the issues raised in the present observation, including statistics on collective agreements, and information on the coverage and rate of unionization, as well as an evaluation by the tripartite committee of certain issues in particular which remain deficient in the institutional system for the defence of trade union rights.

Guinea

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1959)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer, on the whole, to pending legislative issues which are now being examined. The ICFTU also indicates difficulties in exercising the right to strike, together with police repression and the arrest of trade union leaders in cases where strikes have taken place. *In this regard, the Committee requests the Government to provide its observations relating to the comments made by the ICFTU.*

Moreover, the Committee requests the Government to provide, in time for its next session in November–December 2007 and in accordance with the regular reporting cycle, its observations on all the issues mentioned in the Committee's previous observation in 2005 (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1959)

The Committee takes note of the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU), which largely concern outstanding issues of law and practice relating to the Convention which are already under examination. *The Committee requests the Government to send its comments on the ICFTU's observations.*

It also asks the Government, in the context of the regular reporting cycle, to send for examination by the Committee at its session of November–December 2007, its comments on all the matters of law and practice regarding the Convention raised in the Committee's observation of 2005 (see 2005 observation, 76th Session) which also refer to other observations of the ICFTU.

Guinea-Bissau

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1977)

The Committee notes the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) as well as the reply thereto recently submitted by the Governments, which the Committee will examine in its next session.

The Committee also asks the Government, in the context of the regular reporting cycle, to send for examination at the Committee's next session, to be held in November–December 2007, its comments on all the issues of law and practice concerning the Convention raised in the Committee's observation of 2005 (see observation of 2005, 76th Session).

Guyana

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1967)

The Committee takes note of the Government's report and in particular of the Public Utility Undertakings and Public Health Services Arbitration (amendment) Bill of 2006.

The Committee recalls that its previous comments referred to the need to amend the Public Utility Undertakings and Public Health Services Arbitration Act (cap. 54:01) which confers on the Minister broad powers to refer a dispute in the services listed in the schedule (which may be revised at the discretion of the Minister) to a tribunal for compulsory arbitration for services that go beyond those considered to be essential, and renders workers who take part in an illegal strike liable to a fine or imprisonment (section 19).

As regards cap. 54:01 and in particular the schedule listing the essential services, the Committee notes that while it has been considerably reduced with respect to the services included in it, it still contains some services that go beyond those the interruption of which would endanger the life, personal safety or health of the whole or part of the population. In fact, the dockage, wharfage, discharging, loading or unloading of vessels; the services provided by the Transport and Harbours Department and the National Drainage and Irrigation Board cannot be considered as essential services in the strict sense of the term. The Committee recalls, however, that the authorities may establish a system of minimum service in those services considered to be of public utility. In such case, these minimum services should be defined and established with the participation of workers' and employers' organizations.

As regards section 19, the Committee observes that the new Bill sets higher fines than those provided for in the previous Act and maintains the imprisonment for those workers who take part in an illegal strike. The Committee reminds the Government that by conferring on the Minister broad powers to refer to compulsory arbitration disputes in services, not all of which are essential, and by providing for sanctions (fine or imprisonment) in the event of an illegal strike, the Bill compromises the workers' right to strike which the Committee considers to be one of the essential means available to them to protect their interests. ***The Committee asks the Government to take into account the previous comments, so as to ensure that the legislation to be adopted is in full conformity with the provisions of the Convention.***

Concerning the comments made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 29 October 2003, the Committee notes that the Government did not send its observations. These comments refer to the abovementioned restrictions to the right to strike and to the change by the Government of the procedure for payment of union dues by public servants. Currently, the Guyana Public Services Union (GPSU) is required to ask individual members to resubmit authorization for the deduction of union dues in favour of the union, which is an expensive and time consuming process. Although the Committee regrets that the trade union organization was not consulted prior to the adoption of the new procedure in question, the Committee notes this does not violate the principles of freedom of association. The Committee notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2187 (see 332nd Report) and, in particular, its request to the Government to ensure that the deduction of trade union dues and their payment to the GPSU are carried out promptly and in full and to undertake consultations with the GPSU without delay in order to forward to the GPSU any contributions which have been retained. ***The Committee requests the Government to keep it informed of developments in this respect.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee notes the Government's report and reply to the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in 2003, and the comments submitted by the ICFTU on 10 August 2006.

1. The Committee notes from the Government's reply to the comments submitted by the ICFTU in 2003 that: (1) the Trade Union Recognition Act contains protective provisions prohibiting and dissuasively sanctioning anti-union discrimination; and (2) the matter relating to the refusal of the Forestry Commission to recognize, for collective bargaining purposes, the Guyana Public Service Union (GPSU), has been dealt with by the Committee on Freedom of Association in Case No. 2187.

2. The Committee notes further the ICFTU's comment, in its 2006 communication, that, in December 2005, the Government set the level of the public sector pay rise without consulting the GPSU – in breach of the collective agreement with the union. ***The Committee requests the Government to reply to the ICFTU comment in its next report.***

3. Previously the Committee had referred to the recognition of only those unions claiming 40 per cent support of the workers, as set out in the Trade Union Recognition Act. Noting that the Government provides no information respecting this matter, the Committee recalls the Government's previous indication that consultations on this provision would be held with representative organizations of employers and workers. ***Further recalling that, if no union covers more than 40 per cent of the workers, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their members (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 241), the Committee hopes that significant progress respecting this issue would be made in the near future and requests the Government to keep it informed of the results of the consultative process.***

Haiti

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1979)

The Committee notes the Government's reply to the comments sent by the International Confederation of Free Trade Unions (ICFTU) on 31 August 2005. The Committee recalls that these comments mainly concerned legislative issues that had already been examined in connection with dispute settlement mechanisms and the exercising of the right to strike, although the following issues were also referred to:

- The exclusion of certain categories of workers from the scope of the Labour Code, such as public service employees, farmers, independent workers and domestic workers. In this respect, the Committee notes the Government's indications that public service employees are covered by specific legislation, namely the Act of 1982 regulating the public service, which was recently revised by a decree dated 17 July 2005. ***The Committee asks the Government to provide a copy of this text with its next report and to specify the texts governing the trade union rights of farmers, independent workers and domestic workers, in so far as these categories, like public service employees, are not covered by the Labour Code.***
- The allegations of murder, arrests, persecution and physical aggression involving trade union leaders, and acts of violence committed in the Ouanaminthe free zone. The Committee notes that, according to the Government, the trade union rights violations were committed at the level of the political police of the former regime, that the labour administration practiced at present in Haiti is independent of political issues, and that the organizations have regular and normal relations with the Labour Directorate. The Committee recalls that freedom of association can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of trade unions, and that it is the Government's responsibility to ensure compliance with this principle. ***The Committee asks the Government to keep it informed of the outcome of any inquiry into all the alleged incidents, in particular the murder of the trade union delegate Guillaume Lafontant.***

The Committee also recalls that for many years now its comments have referred to the need to:

- take steps to amend section 34 of the Decree of 4 November 1983, which gives the Government broad powers of supervision over trade unions, and sections 185, 190, 199, 200 and 206 of the Labour Code, which allow for compulsory arbitration at the request of only one party to a labour dispute;
- bring national legislation into line with the provisions of article 35 of the Constitution of 1987, which guarantees freedom of association and protection of workers' rights in both the public and the private sectors;
- amend sections 233, 239 and 257 of the Labour Code, so as to remove all impediments to the right of association of minors and domestic workers and give foreign workers access to trade union office, at least after a reasonable period of residence in the host country; and
- repeal or amend section 236 of the Penal Code, under which Government consent is required for the establishment of an association of more than 20 members.

The Committee also notes the Government's information indicating that the Labour Directorate, through the Conciliation Service, intervenes in labour disputes and sets out to resolve them by practising "amiable composition", and that, in the event of the failure of conciliation, disputes are referred to the court of law and notably to the labour tribunal for a final decision. The Committee also notes that, according to the Government, the Labour Code has been under revision since April 2000, but that, due to political troubles and the absence of parliament, it has not been possible to complete the new draft. ***While recalling that, in its 2005 report, the Government had undertaken to facilitate the alignment of Haiti's legislation with the provisions of the Convention and that the Government may request the technical assistance of the Office for this purpose, the Committee hopes that it will be possible to observe some progress in this regard when it examines all these issues within the context of the regular report examination cycle in 2007.***

Finally, the Committee notes the communication from the ICFTU dated 10 August 2006, which refers to issues already examined by the Committee in its previous comments, and the raid carried out by armed policemen at the premises of a higher level trade union organization. ***The Committee requests the Government to include its comments on these matters in its next report.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

1. *ICFTU comments.* The Committee notes the Government's reply to the comments of the International Confederation of Free Trade Unions (ICFTU), dated 31 August 2005, on the application of the Convention.

The Committee also notes the communication dated 10 August 2006 from the ICFTU relating to issues already raised and reporting certain recent violations of the Convention.

The Committee recalls that, in its comments in 2005, the ICFTU referred to the conflict between the trade union organization Batay Ouvrye, Sokowa, trade union of the workers of the CODEVI Ouanaminthe, affiliated to the Bataye Ouvrye, and the enterprise Grupo M, which resulted in the massive dismissal of trade unionists and interventions by the

Dominican military to guarantee the security of the enterprise located in the export processing zone on the Haitian–Dominican border. In this respect, the Government indicates that it has taken measures to provide the necessary support in the context of the management of relations between these social partners. Several working meetings have been held, an employment office has been established in Ouanaminthe with conciliation inspectors with the function of providing support and ensuring control of employment relations in the export processing zone. Relations have since stabilized and a collective agreement was concluded by the employer and the trade union in December 2005. The Government emphasizes that violations of trade union rights were committed by the political police of the former regime and that trade union organizations now maintain regular and normal relations with the Labour Directorate. The Committee notes this information.

2. *Articles 1, 2 and 4 of the Convention.* The Committee refers to its previous comments, in which it requested the Government to keep it informed of any developments regarding: (i) the adoption of a specific provision to afford protection against anti-union discrimination at the time of recruitment; (ii) the adoption of provisions, coupled with effective and expeditious procedures and sufficiently dissuasive sanctions, guaranteeing workers general and adequate protection against acts of anti-union discrimination; and (iii) the amendment of section 34 of the Decree of 4 November 1983 which empowers the Social Organizations Unit of the Department of Labour and Social Welfare to intervene in the drafting of collective agreements.

While noting that any reform of the labour legislation may have been delayed by the difficulties facing the country, the Committee notes that, in its report in 2005, the Government expressed its commitment to adopt all necessary measures to protect workers against any anti-union discrimination, ensure adequate protection for employers' and workers' organizations against any acts of interference by each other and establish the conditions to encourage and promote the development of voluntary bargaining procedures and their widest possible use.

The Committee reminds the Government that ILO technical assistance is at its disposal and requests the Government to provide detailed information in its next report on any progress achieved in this respect and, in the meantime, to keep it informed of any developments in the situation. The Committee hopes to be able to note concrete progress in the near future.

Honduras

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee takes note of the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, which largely concern issues of law and practice regarding the Convention which the Committee has already examined. It notes in particular the allegation that a trade union officer of the General Workers' Confederation (CGT) was killed in December 2005.

The Committee reminds the Government in this connection that freedom of association cannot be exercised unless human rights are observed and fully safeguarded, particularly the right to life and personal safety. *In these circumstances, the Committee requests the Government to take the necessary steps to have the alleged killing investigated, and to keep the Committee informed on the matter.*

The Committee requests the Government, in the context of the regular reporting cycle, to send for examination by the Committee at its next session, to be held in November–December 2007, its comments on the other issues of law and practice pertaining to the Convention raised in the observation of 2005 (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1956)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU), dated 10 August 2006, referring largely to matters relating to the legislation and the application of the Convention in practice which have already been examined. The ICFTU also alleges failure to comply with a collective agreement in the mining sector.

The Committee requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee's next session in November–December 2007 on the ICFTU's comments and on the other issues relating to the legislation and the application of the Convention in practice raised in its previous observation in 2005 (see the 2005 observation, 76th Session).

Hungary

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

The Committee notes the Government's report.

The Committee notes the comments made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 10 August 2006, concerning some issues raised in previous comments, some new information (new legislation is said to have been adopted providing that a single trade union or joint delegation of unions in the public sector has to comprise at least 25 per cent of the workforce to conclude a collective agreement) and raising specific violations of the Convention, including anti-union discrimination (transfers and dismissals), unilateral annulment of collective agreement, and interference in trade union internal affairs. ***The Committee requests the Government to transmit its observations on the comments made by the ICFTU and on the pending comments of the Committee in its next reports due for the regular reporting cycle in 2007.***

India

Right of Association (Agriculture) Convention, 1921 (No. 11) (ratification: 1923)

The Committee takes note of the Government's report.

It notes the Government's statement that the Trade Union Act, 1926 that empowers the workers of the country including those in agriculture to establish trade unions was amended by the Trade Union (Amendment) Act, 2001. The Committee regrets, however, that the Government failed to supply information concerning the number of self-employed workers engaged in agriculture who are union members and to provide statistics more generally on the number and type of agricultural workers' unions registered under the Trade Union Act. ***The Committee therefore once again reiterates its request.***

Rural Workers' Organisations Convention, 1975 (No. 141) (ratification: 1977)

The Committee takes note of the Government's report. It recalls that its previous comments referred to the following questions.

The need to ensure the rights under the Convention of muster assistants (workers that provide water and medical facilities at worksites) employed through the Employment Guarantee Scheme. The Committee notes the Government's statement that the muster assistants were appointed on an honorarium basis under the Employment Guarantee Scheme of the State Government of Maharashtra. They were appointed for a particular work and on completion of the work their services were terminated. However, purely as a humanitarian measure on the part of the State Government, they were later absorbed into Class III and Class IV posts in the State Government/Zilla Parishad service. All 5,684 muster assistants have since been absorbed into the government service. There is a well established grievance redressal mechanism at the district, region and the state level to address the grievances of all government employees, including muster assistants. ***Reiterating that muster assistants are rural workers covered by the "related occupations", as defined by Article 2 of the Convention, the Committee requests the Government to provide information on the possibility of those workers to form strong and independent organizations to improve their working conditions and the measures envisaged by the Government to facilitate this objective.***

The need to ensure the right of those employed in the Government's "Integrated Child Development Scheme" (ICDS) to form strong and independent associations. The Committee notes the Government's indication that the ICDS is a centrally sponsored scheme implemented in rural, tribal, as well as urban areas, through *anganwadis* (pre-school nurseries). Each *anganwadi* has one *anganwadi* worker and one helper. They work for about four hours daily. The Government indicates that the ICDS workers and helpers are paid honorarium and are not regular government employees. The Committee notes with interest the Government's statement that there are seven independent associations of *anganwadi* workers which have approximately 130,000 members and that these associations are in close contact with the State Government.

Recalling that the ICDS participants are rural workers covered by the "related occupations" as defined by Article 2 of the Convention, which states that "the term 'rural worker' means any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner or, subject to the provisions of paragraph 2 of this Article, as a self-employed person", the Committee requests the Government to keep it informed of the contribution made by the associations of anganwadi workers to improve employment opportunities for women and conditions of work and life in rural areas.

The need to ensure the right of forest and brick-making workers to form strong and independent organizations to improve their working conditions. In this respect, the Committee requested the Government to indicate the specific legislative provisions ensuring this right and to provide any statistics available in respect of the number of such organizations, the number of workers covered, and any collective agreements which may have been concluded in this sector. The Committee notes the Government's report, which indicates the relevant legislation applicable to those workers, including the basic labour laws such as the Industrial Dispute Act, (1947), the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, (1971), and the Minimum Wages Act, (1948), and contains information on wage fixing and benefits enjoyed by the forest workers. The Committee further notes the Government's indication that a grievances redressal system has been put in place and that the grievances of the forest workers that have been communicated through unions are addressed to the greatest extent possible. The Committee further notes that brick-

making workers are covered by the Trade Union Act, (1926), and that their working relations are mostly regulated on the basis of contracts. It notes the Government's indication that these workers belong to the rural workers' organizations in their respective villages and that all the benefits under the rural development scheme for the rural workers are extended to them. ***Taking due note of the information provided by the Government, the Committee requests it once again to provide any statistics available in respect of the number of organizations of forest and brick-making workers, the number of workers covered, and any collective agreements which may have been concluded in these sectors.***

Indonesia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1998)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer, on the whole, to pending legislative issues and issues relating to the application of the Convention in practice which are now being examined. Moreover, the ICFTU cites the arrests of trade union leaders, threats of physical aggression, acts of violence and anti-trade union police harassment against strikers and demonstrators, as well as impediments in the procedures for registering a federation. ***In this regard, the Committee requests the Government to provide its observations relating to the comments made by the ICFTU.***

Moreover, the Committee requests the Government to provide, in time for its next session in November–December 2007 and in accordance with the regular reporting cycle, its observations on the legislative issues mentioned in the Committee's previous observation in 2005 (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer in part to pending issues relating to legislation and the application of the Convention in practice that are already under examination, as well as other matters. The Committee takes note of the recently received reply of the Government to the ICFTU's comments. The Committee will examine the ICFTU's comments and the Government's reply thereto at its next session.

The Committee further notes Cases Nos. 2236 and 2336 in which the Committee on Freedom of Association considered matters relating to the law and practice concerning freedom of association and collective bargaining. ***The Committee will examine these issues in the context of the regular reporting cycle in 2007 and requests the Government to communicate the measures taken with respect to the recommendations of the Committee on Freedom of Association.***

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee's next session in November–December 2007 on all the issues relating to legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Iraq

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

The Committee notes the Government's communication.

Although the Committee is aware of the ongoing process of reconstruction of the country and the climate of violence, the Committee hopes that the Government will take the necessary measures for the effective implementation of the Convention with regard to the points raised below, and that the draft Labour Code will soon be adopted and will be in full conformity with the requirements of the Convention. The Committee notes that, in its communication, the Government expresses the wish for a wider cooperation with the ILO in several domains, including the application of freedom of association and the right to organize and participation in the framework of fundamental principles at work, in order to reach the objective of decent work; the Government wishes as well to develop a programme for social partnership and to widen social dialogue. ***The Committee supports the approach.***

The Committee notes the comments made by the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006 underlining serious cases of violence and other grave violations of freedom of association and collective bargaining in Iraq in the current context of the official recognition of one single federation. ***The Committee requests the Government to respond to these comments.***

Articles 1 and 4 of the Convention. In its last comments, the Committee noted that neither the Labour Code (Act No. 71 of 1987) nor Act No. 52 of 1987 on trade union organizations contain provisions giving effect to *Articles 1 and 4* of the Convention. The Committee recalled that the Government has indicated that measures had been taken to amend the Labour Code in the manner desired by the Committee. In its communication, the Government indicates that the current Labour Law sections amended by Law No. 17/2000 allow workers in mixed, cooperative and private sectors the right to

collective bargaining, but it acknowledges that the practical implementation of this right has been difficult under the difficult circumstances the country is facing. *Noting that the process of preparing a new Labour Code began in 2004, the Committee expresses the hope that these amendments will be adopted as soon as possible, in order to include in the legislation provisions guaranteeing an adequate protection of workers against any acts of anti-union discrimination through dissuasive sanctions and to promote the preparation and full use of collective bargaining mechanisms particularly in the private, mixed and cooperative sectors.*

Articles 1, 4 and 6. In its last comments, the Committee had also noted that Act No. 150 of 1987 concerning public servants does not contain any provisions ensuring that the guarantees provided for by the Convention apply to public servants and employees not engaged in the administration of the State. The Government had indicated in a previous report that public servants enjoy protection against acts of anti-union discrimination and have the right to collective bargaining of their employment conditions, in conformity with the legislation applicable to the enterprises and institutions which employ them. *The Committee requests once again the Government to provide a copy of any legislation guaranteeing for public servants protection from acts of anti-union discrimination and establishing the right to collective bargaining for public servants not engaged in the administration of the State, as well as information on the number of collective agreements concluded in the public and private sectors and the number of workers covered.*

Israel

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006 on the application of the Convention. The Committee notes the recent communication of the Government which replies to the ICFTU's comments. The Committee will examine the ICFTU's comments and the Government's reply at its next session.

Jamaica

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

The Committee notes the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU), which largely concern legislative issues still outstanding that are already being examined. The ICFTU draws attention to obstacles to the exercise of trade union rights in the export processing zones, where no unions exist. *The Committee requests the Government to send its observations on the ICFTU's comments.*

The Committee also requests the Government, in the context of the regular reporting cycle, to send for examination at its next session, to be held in November–December 2007, comments on all the questions raised in the direct request of 2005 (see 2005 direct request, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer in part to pending issues of a legislative nature that are already under examination. The ICFTU also reports obstacles to trade union rights in export processing zones, where trade unions do not exist. *In this respect, the Committee requests the Government to provide its observations on the comments made by the ICFTU.*

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee's next session in November–December 2007 on all the issues relating to legislation and the application of the Convention in practice referred to in its previous observation in 2005 (see the 2005 observation, 76th Session).

Japan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1965)

The Committee notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU), the Zentoitsu Workers' Union and the Japan Trade Union Confederation (JTUC–RENGO), in communications dated respectively, 10 August 2006, 13 December 2005 and 28 August 2006, which largely refer to issues that the Committee is already examining and that concern the effect given to the Convention in law and in practice. *The Committee requests the Government to send its observations on the ICFTU's comments.*

The Committee also requests the Government, in the context of the regular reporting cycle, to send for examination at its next session, to be held in November–December 2007, its views on the legislative matters raised in the Committee’s observation of 2005 (see 2005 observation, 76th Session).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1953)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU), the Zentoitsu Workers Union and the Japanese Trade Union Confederation (JTUC–RENGO), which refer largely to matters relating to the legislation and the application of the Convention in practice that are already under examination. *In this respect, the Committee requests the Government to provide its observations on these comments.*

The Committee also requests the Government, in the context of the regular reporting cycle, to provide its observations for the Committee’s next session in November–December 2007 on all the issues relating to the legislation and the application of the Convention in practice raised in its previous observation in 2005 (see 2005 observation, 76th Session).

Jordan

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1968)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer, in part, to legislative issues, and issues relating to the application of the Convention in practice. Moreover, and more specifically, the ICFTU indicates the denial of trade union rights to migrant workers, including in free export zones. *In this regard, the Committee notes the Government’s observations which are currently being translated and which will be examined next year during the regular reporting cycle.*

Kazakhstan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

The Committee notes with regret that the information contained in the Government’s report is limited to the information provided in its report of 2003. The Committee regrets that, for three consecutive years, the Government has failed to reply to the specific comments and questions concerning the application of the Convention made by the Committee in its previous comments. *It trusts that the Government will be more cooperative in the future.*

The Committee further notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, which addresses several legislative issues previously raised by the Committee and violations of trade union rights in practice, in particular, high registration cost, which makes registration of trade unions almost impossible and interference by employers in trade unions’ internal affairs. *The Committee requests the Government to communicate its observations on these comments in its next report.*

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee noted that section 10(1) of the Law on Social Associations and section 8 of the Law on Trade Unions stipulate that a social association is formed on the initiative of no less than ten individuals who are citizens of Kazakhstan. *Recalling that no distinction based on nationality should be made as concerns the workers’ right to establish trade unions, the Committee requests the Government to indicate whether there are any specific regulations restricting trade union rights of non-citizens and to amend the Law on Trade Unions and the Law on Social Associations so that at least after a reasonable period of residency, non-citizens have the right to found a trade union.*

The Committee further notes that employees of law enforcement bodies and judges are prohibited from forming and joining trade unions (article 23(2) of the Constitution and section 11(4) of the Law on Social Associations) and that section 3(1) of the Law on Trade Unions stipulates that “the particulars of the applications of this law in railway forces will be defined by legislation”. The Committee recalls in this respect, that the only exceptions authorized by Convention No. 87 are members of the police and the armed forces. However, civilians working in military installations or in the service of the army or police, as well as prison staff, should enjoy the rights provided for in the Convention. *The Committee therefore requests the Government to amend its legislation so as to ensure the right to organize to judges to indicate whether railway workers have a right to form and join organizations to defend their own social and occupational interests. It further requests the Government to specify the categories of workers covered by the term “law enforcement bodies”.*

Article 3. Right to strike. The Committee notes section 10(6) of the Law on Civil Service, which provides that “a civil servant has no right to participate in actions interfering in the normal functioning of state bodies and with fulfilment of official duties, including strikes”. The Committee recalls in this regard, that the prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State. Being aware of the fact

that except for the groups falling clearly into one category or another, the matter will frequently be one of degree, the Committee considers that a solution might not be to impose a total prohibition of strikes, but rather to provide for the maintaining by a defined and limited category of staff of a negotiated minimum service when a total and prolonged stoppage might result in serious consequences for the public (see 1994 General Survey on freedom of association and collective bargaining, paragraph 158). ***The Committee therefore requests the Government to clarify the categories of public servants covered by the law and if this would include those who are not exercising authority in the name of the State, such as those working in public institutions, bank employees, teachers, etc., to modify this provision accordingly.***

The Committee further notes that according to section 8(1)(6) of the Labour Law, the employer has a right to dismiss workers in the event of organization of, and participation in, a strike found illegal by the court. The Committee notes, however, that the Labour Law does not contain specific provisions on strikes. ***While considering that sanctions for strike action, including dismissals, should be possible only where the prohibitions of strike are in conformity with the principles of freedom of association, the Committee requests the Government to indicate the regulations, court judgements or other texts, which establish the basis for determining the legality of strike actions, and to provide a copy of the Law on Collective Disputes and Strikes.***

Article 5. Right of organization to establish federations and confederations and to affiliate with international organizations. The Committee notes that according to section 106 of the Civil Code, “it is forbidden for political parties, non-governmental organizations with political goals and trade unions to receive any kind of foreign financial assistance from any foreign countries, foreign organizations, foreign citizens and international organizations”. This prohibition is reinforced by the constitutional provision contained in *Article 5 (paragraph 4)* which provides that “activities of trade unions of other states, as well as financial assistance to trade unions by foreign legal governments, foreign citizens, foreign companies, foreign NGOs, and international organizations is forbidden in the Republic”. The Committee considers that legislation prohibiting the acceptance by a national trade union of financial assistance from an international organization of workers to which it is affiliated infringes the principles concerning the right to affiliate with international organizations of workers and that all national organizations of workers and employers should have the right to receive financial assistance from international organizations of workers and employers respectively, whether they are affiliated or not to the latter. ***The Committee therefore requests the Government to take steps to amend section 106 of the Civil Code as well as article 5 of the Constitution so as to lift the prohibition on the acceptance by national trade unions of financial assistance from international organizations of workers and to keep it informed of the measures taken or envisaged in this respect.***

As concerns the activities of international organizations in Kazakhstan, the Committee notes that although article 5 of the Constitution and section 5(4) of the Law on Social Associations seem to forbid them, section 9 of the Law on Social Associations provides that the subordinate structures (affiliates and representatives) of international and foreign non-commercial and non-governmental associations may form and operate in the Republic of Kazakhstan. ***The Committee therefore requests the Government to clarify the meaning of article 5 of the Constitution and section 5(4) of the Law on Social Associations as concerns the activities of international organizations within Kazakhstan, especially for those who have affiliates in the country (particularly in the light of section 9 of the Law on Social Associations).***

The Committee also requests the Government to provide a copy of the Law on non-commercial organizations to which the Government refers in its report.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2001)

The Committee notes with regret that the information contained in the Government’s report is limited to the information provided in its report of 2003. The Committee regrets that, for three consecutive years, the Government has failed to reply to the specific comments and questions concerning the application of the Convention made by the Committee in its previous comments. ***It trusts that the Government will be more cooperative in the future.***

The Committee further notes the observations submitted by the International Confederation of Free Trade Unions (ICFTU), which address several legislative issues previously raised by the Committee and violations of trade union rights in practice, in particular, interference by the employer in trade unions’ internal affairs and activities and refusals to bargain collectively. ***The Committee requests the Government to communicate its observations on these comments in its next report.***

The Committee notes the Law of 23 December 2004 amending the Labour Law of 10 December 1999.

Articles 1, 2 and 4 of the Convention. The Committee notes that employees of national security and law enforcement bodies are prohibited from forming and joining trade unions (article 23(2) of the Constitution and section 11(4) of the Law on social associations). The Committee further notes that section 3(1) of the Law on trade unions stipulates that “the particulars of the applications of this law in railway forces will be defined by legislation”. ***While recalling that civilian staff working in the service of the army or police as well as prison staff should enjoy the rights provided for in the Convention, the Committee requests the Government to specify the categories of workers covered by the term “law enforcement bodies” and to indicate whether railway workers enjoy the rights afforded by Convention No. 98.***

Article 1. In its previous comments, the Committee had noted that the Labour Law provides for reinstatement of workers in the event of dismissal without lawful grounds, or in the event of unlawful transfer to another job and that persons who consider that they have been discriminated against in the sphere of labour may petition to the court, and that section 109 of the Labour Law as amended provides that persons found guilty of violation of labour legislation bear responsibility under the legislation of the Republic of Kazakhstan. ***The Committee requests the Government to specify sanctions which could be imposed in cases of acts of anti-union discrimination and to indicate relevant legislative provisions.***

Article 2. ***While noting that sections 4(4) and 18(2) of the Law on trade unions prohibit acts of interference in the affairs of workers' organizations, the Committee requests the Government to provide details on the procedures available to trade unions and employers' organizations in cases of infringement, as well as the specific sanctions provided by the legislation.***

Article 4. The Committee notes that it follows from the definition of the terms "collective agreement" and "representative of workers" provided for in section 1 of the Labour Law as amended, and section 32(1) of the same law, that the parties to collective bargaining are, on the one hand, one or several employers and, on the other, one or several trade unions or other persons or organizations authorized by workers. The Committee notes that section 32(2) of the Labour Law, not amended under the new Amendment Law, provides that the employer shall bargain with all representatives of the parties concluding a collective agreement and that section 32(3), as amended, provides that workers who are not members of a trade union have a right to authorize either a trade union body or other representatives to represent their interests in relations with an employer. Furthermore, section 3 of the Law on collective agreements provides that, in collective bargaining, workers are represented by general assembly (conference), trade union or other "authorized bodies" and sections 4(1) and 6(1) stipulate that the draft agreement is prepared by the labour collective with a large participation of its members, trade union organizations and other public workers' associations existing at the enterprise. The Committee notes that the ICFTU raises the issue of the presence of other workers' representatives or "authorized bodies" besides trade union organizations in the collective bargaining process. ***The Committee requests the Government to clarify the procedure of elaboration and conclusion of a collective agreement by specifying, in particular, whether in the presence of a trade union and other workers' associations representing non-unionized workers, the collective agreement is negotiated with both organizations. Moreover, the Committee also requests the Government to indicate whether direct negotiation between the enterprise and its employees (in particular, through other representative bodies referred to by the legislation as "authorized bodies), bypassing representative organizations where these exist, are allowed by the legislation.***

The Committee further notes that under section 8(2) of the Labour Law, the employer is obliged to conclude a collective agreement. Section 4(2) of the Law on collective agreements prohibits the parties from refusing to sign the collective agreement. Section 10 of this Law further provides that refusal to conclude a collective agreement is punishable by a fine of up to 1,000 rubles. The Committee recalls in this respect that *Article 4* of the Convention embodies the principle of free and voluntary negotiation and that the legislation, which imposes an obligation to achieve a result (particularly when sanctions are used in order to ensure that an agreement is concluded), is contrary to this principle. ***The Committee therefore requests the Government to take the necessary measures to amend its legislation so as to guarantee the voluntary nature of collective bargaining.***

As concerns the settlement of labour disputes in the framework of the establishment of collective agreements, the Committee requests the Government to indicate whether the legislation allows compulsory arbitration at the request of one party or on the initiative of the authorities. The Committee further requests the Government to provide a copy of the Law on labour disputes and strikes.

Article 6. ***The Committee requests the Government to indicate whether public servants are granted collective bargaining rights and to specify the relevant legislative provisions.***

Kenya

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1964)***

The Committee notes the Government's report and the Government's reply to the 2005 and 2006 communications of the International Confederation of Free Trade Unions (ICFTU).

Articles 4 and 6 of the Convention. Collective bargaining in the public sector. The Committee had trusted that the Government would take the necessary measures to ensure that public employees (with the possible exception of those engaged in the administration of the State) benefit from the guarantees laid down in the Convention, and in particular the right to collective bargaining. The Committee took note of the Memorandum of Understanding concluded on 14 May 2004 between the Government and the Union of Civil Servants concerning recognition, negotiating and grievance procedures for civil servants, and providing for collective bargaining machinery for negotiation of terms and conditions of employment. The Committee notes that, according to the Government's report, the parties have negotiated and agreed in May 2006 on a salary increment which came into effect on 1 June 2006 and that the coverage of the memorandum was

broadened to cover job groups A to N. The Committee had noted in its previous observation, however, that the memorandum does not apply to employees of the Prison Department, the National Youth Service and teachers under the Teachers' Service Commission. The Committee notes that, according to the Government, these categories of worker are restricted from joining unions or collective bargaining for security reasons as they are disciplined forces; nevertheless, the terms and conditions of service for the National Youth Service are established by the Permanent Public Sector Remuneration Review Board. The Committee notes the comments of the ICFTU concerning the new Teachers' Service Commission (TSC) regulations, introduced on 1 October 2005, prohibiting senior teaching staff (school principals, deputies, heads of department, senior researchers, advisory centre tutors and education programme officers) from playing an active part in the union, including collective bargaining. ***Recalling that all these categories, as employers or as employees, should enjoy the right of collective bargaining, the Committee requests again the Government to indicate if they can negotiate under other legislative provisions. The Committee requests the Government to reply to the ICFTU's comments concerning the new TSC regulations. The Committee requests again the Government to keep it informed of any amendment to the legislation in relation to the right to collective bargaining of public employees covered by the Convention.***

Workers in EPZs. The Committee notes the ICFTU's comment that although workers in EPZs are allowed to join trade unions, they still suffer appalling conditions, and those who complain are threatened with dismissal. The Government, responding to the comments of the ICFTU, stated that there are restrictions for them in the existing legislation, and that its numerous information dissemination and awareness campaigns have helped to normalize the situation and that the labour inspectors continuously monitor the situation and take remedial measures when necessary. ***Recalling that the Convention must be applied in law and in practice in the EPZs, the Committee requests the Government to send information on the number of union and collective agreements in EPZs indicating the number of workers covered.***

Review of labour laws. The Committee notes that the Government acknowledges the need to review its labour laws to ensure conformity with internationally accepted labour standards; a tripartite-based task force in 2001 reviewed all of the Kenyan labour laws, and draft bills have been submitted to the Attorney-General for necessary action; according to the Government, these draft bills take into account the eight core Conventions on fundamental principles and rights at work, but require cabinet and parliamentary approval before they become operational and measures have been taken to hasten the process. The Committee notes however that the ICFTU underlines that the revision of the Labour Code has progressed at a slow pace, as the Government claims that this cannot be finalized until the Constitution is ratified, and, as it has been rejected by Kenyan citizens, it is uncertain when the law will be passed. The Committee notes that the Government acknowledges that there have been delays and that measures have been taken to hasten the process. ***The Committee requests the Government to keep it informed of the adoption of the draft bills revising the entire Kenyan labour legislation and hopes that the future legislation will be in full conformity with the Convention.***

The Committee notes that the ICFTU had raised the case of a trade unionist who was dismissed, after having convened a meeting to discuss overtime, on grounds of having incited the workers and used abusive language. The Committee notes that the Government states that, after the matter was brought to its attention, it launched an investigation which resulted in a reconciliation between the parties, which agreed to settle their dispute by payment of compensation.

The Committee is addressing a request on this matter directly to the Government.

Kuwait

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

The Committee notes the Government's report and its reply to the comments made by the International Confederation of Free Trade Unions (ICFTU) on 31 August 2005. On 10 August 2006, the ICFTU submitted additional comments on the application of the Convention. Both ICFTU communications mainly refer to legislative issues already raised by the Committee in its previous observations.

In its previous observation, the Committee had noted with interest the draft Labour Code, the provisions of which appear to resolve a number of discrepancies between the legislation and the provisions of the Convention that had been raised in its previous comments. In particular, it noted that the new draft Code appears to have eliminated the following provisions in the present Labour Code: the requirement of at least 100 workers to establish a trade union (section 71) and ten employers to form an association (section 86); the prohibition on joining a trade union for individuals under 18 years of age (section 72); the restrictions on trade union membership for non-national workers (section 72); the requirement for a certificate from the Minister of the Interior approving the founding members of a trade union (section 74); the prohibition on establishing more than one trade union per establishment, enterprise or activity (section 71); restrictions on the right to vote and to be elected to trade union office for non-nationals (section 72); the reversion of trade union assets to the Ministry of Social Affairs and Labour in the event of dissolution (section 77); the restriction imposed on trade unions to join federations only where the activities are identical, or where industries are producing the same goods or supplying similar services (section 79).

In this respect, the Committee notes the Government's statement that the new draft Labour Code for the private sector was referred to the Council of Ministers for eventual submission to the People's Assembly (*Majlis El Umma*) for discussion and adoption. The Committee also notes that, although the Government indicates that a copy of the draft code is attached to its report, the said draft has not been received. ***The Committee requests the Government to indicate in its next report the progress made with respect to the adoption of the new Labour Code and to transmit a copy of the said Code as soon as it has been adopted.***

Concerning other provisions of the draft Code upon which it had previously made comments, the Committee notes the Government's following indications.

Domestic workers (section 5 of the draft Labour Code). The Government states that the exclusion of domestic workers from the scope of application of the Labour Code can be explained through the special characteristics of this category in Kuwait. As domestic workers are considered members of the family, it is difficult for the labour inspection department to enter private households to verify the application of the Code. The Government has nevertheless set up, by virtue of Order No. 568 of 2005, a special committee to examine the situation of domestic workers; the said committee has proposed a model contract for domestic workers and their employers, and this contract shall be distributed to all of the Government's embassies in the countries exporting domestic workers. The Committee takes note of this information and the Government's request for technical assistance regarding this issue. It recalls, once again, that *Article 2 of the Convention* applies to all workers without distinction, including domestic workers, who should therefore be covered by the guarantees it affords and should have the right to establish and join occupational organizations (see 1994 General Survey on freedom of association and collective bargaining, paragraph 59). ***In this connection, the Committee requests the Government to consider amending section 5 of the draft Labour Code, which excludes domestic workers from the provisions of the Code, or otherwise indicate the manner in which the right to establish and join organizations of their own choosing is ensured to domestic workers. With respect to the model contract for domestic workers, the Committee expresses the hope that the right to establish and join organizations is expressly provided for in the said contract; noting that a copy of the contract has not been received, the Committee requests the Government to attach a copy of it with its next report.***

Restriction to one single general federation (section 101 of the draft Labour Code). The Government indicates that the restrictions concerning a single trade union system, as set out in the current legislation, have been avoided in the draft Labour Code and that the same applies to the limitation on the creation of more than one trade union confederation; this is set out in section 102. The Committee notes, nevertheless, that section 102 only allows the general federation to join Arab or international federations. Otherwise, the limitation on the establishment of general federations set out in section 101 remains. ***In these circumstances the Committee once again requests the Government to take appropriate measures so that the draft Code will ensure the right of workers to establish the organization of their own choosing at all levels, including the possibility of forming more than one general federation.***

Minister's excessive power to examine the financial books and records of workers' and employers' organizations, and global prohibition for accepting donations and legacies without approval of the ministry (section 100 of the draft Labour Code). The Government states that the extensive powers provided in Law No. 38 of 1964 were abrogated by section 101 of the draft Labour Code. ***In these circumstances, the Committee asks the Government to indicate whether section 100 of the draft Labour Code has been revised so as to ensure the right of workers' and employers' organizations to organize their administration, including their finances, without interference by the public authorities.***

Overall prohibition of trade union political activities (section 100 of the draft Labour Code). The Government indicates that these restrictions have been maintained in the draft Code, due to the fact that trade unions are not political parties and must limit their role to the purposes for which they were established – namely, to protect and defend their members' interests. With regard to this matter, the Committee once again recalls that legislation which prohibits all political activities for trade unions give rise to serious difficulties with regard to the provisions of the Convention. Some degree of flexibility in legislation is therefore desirable, so that a reasonable balance can be achieved between the legitimate interest of organizations in expressing their point of view on matters of economic and social policy affecting their members and workers in general, on the one hand, and the separation of political activities in the strict sense of the term and trade union activities, on the other (see General Survey, op. cit. paragraph 133). ***The Committee again asks the Government to consider revising section 100 of the draft Code, so as to eliminate the total ban on political activities in keeping with the abovementioned principle and to inform it of the progress made in this regard.***

Compulsory arbitration (sections 116–125 of the draft Labour Code). The Government indicates that, under the new draft Code, arbitration is optional for workers and not compulsory. In this respect, the Committee observes that, under section 120 of the draft Code, the Conciliation Committee may, if it is unable to settle a dispute, refer the unsettled issues to the arbitration tribunal. Furthermore, section 124 allows the competent ministry to intervene in a dispute without being asked to do so by any of the disputing parties, if need be, to bring about an amicable settlement of the dispute, and may also refer the dispute to the Conciliation Committee or the arbitration tribunal, as it deems appropriate. ***In light of the above, the Committee once again requests the Government to take the necessary measures to ensure that final and binding arbitration is only imposed with respect to essential services in the strict sense of the term, public servants exercising authority in the name of the State and in cases of acute national crises, or in the event that both parties agree.***

Finally, the Committee regrets that the Government's reply otherwise does not address a number of other points raised by the Committee in its 2004 observation. It therefore reiterates those hitherto unaddressed comments, and in particular asks the Government to:

- clarify the types of workers governed by other laws referred to in the exclusions set forth in section 5 of the draft Code;
- provide a copy of the special laws applicable in the oil and public sectors, and to indicate the manner in which they might restrict the application of Part 5 of the draft Code to the workers in these sectors (section 94 of the draft labour Code);
- provide information on any regulations issued by the Minister (section 95 of the draft Code) relating to the right of employers to form federations;
- consider revising section 98 of the draft Code so that the Minister's authority to refuse approval of the constitution of an employers' or workers' organization is strictly limited and to impose a time limit for the decision which, if not respected, shall give rise to the registration of the organization.

The Committee hopes that the Government will take the necessary measures to make the changes indicated above to bring the legislation into conformity with the Convention and asks the Government to transmit any legislative text adopted or envisaged in this regard.

Finally, the Committee notes that the ICFTU refers to the arrest and deportation of more than 60 Indian migrant workers who had staged a sit-in to protest poor living conditions and pay arrears. In this connection, the Committee recalls that the peaceful exercise of trade union rights by workers should not lead to arrests and deportation. *The Committee requests the Government to submit its observations in relation to this comment.*

Latvia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1992)

The Committee notes the Government's report.

Articles 3 and 10 of the Convention. Right of workers' organizations to formulate their programmes and to further and defend the interests of workers without interference from the public authorities. In its previous comments, the Committee requested the Government to amend section 11(1) of the Law on Strikes so as to reduce the required quorum and majority for a strike ballot to a reasonable level. In this respect, the Committee notes with satisfaction the adoption of amendments to the Law on Strikes providing the reduction of the required quorum for the vote to declare a strike from three quarters to one half of the members of a trade union or a company, who shall participate in a meeting which adopts the relevant resolution. A resolution shall be adopted by a simple majority of members of the trade union participating in the meeting. Furthermore, the Committee notes that the amendments prescribe the reduction of the term to be complied with by the strike committee prior to going on strike from ten days to seven days in order to inform the relevant institutions on the commencement of the strike.

The Committee is raising other points in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1992)

The Committee notes the Government's report.

1. *Article 4 of the Convention. Right to collective bargaining of prison service workers.* The Committee notes that, according to the Government, in compliance with section 4 of the Prisons Administration Law, the prison administration staff shall be comprised of: (1) the specialized state civil service servants (individuals with the appropriate vocational education, qualifications, rank and who have taken the oath of a civil servant and serve in the prison administration) whose legal status, rights, duties and social guarantees are determined by the Prison Administration Law; (2) civil servants in general (regulated by the State Civil Service Law); and (3) employees who work on the basis of a contract of employment (regulated by the Labour Law). According to the Government, the Prison Administration Law does not prohibit servants to organize but prohibits them to take part in a strike. *The Committee recalls that, in accordance with the Convention, workers of the prison services should enjoy full collective bargaining rights. The Committee requests the Government to describe the dispute settlement mechanism this category of workers can use in a case of a dispute and to introduce in the legislation clear provisions granting them the right to collective bargaining.*

2. *State police, state border guard, state fire and rescue service.* The Committee notes the Government's statement that, on 15 June 2006, the Law on the service of officials with special service ranks of the institutions of the system of the Ministry of Internal Affairs and Prison Administration was adopted. The Government adds that the institutions subordinated to the Ministry of Internal Affairs are included in the system of the Ministry of Internal Affairs – state police, state border guard, state fire and rescue service. The Government states that, in the nearest future, it is planned to adopt corresponding updates of the other regulatory acts, including issues relating to negotiating. *The Committee requests the*

Government to send a copy of the recently adopted Law. The Committee welcomes the future updates concerning collective bargaining of the regulatory acts regarding state police, state border guard, state fire and rescue service and asks to be kept informed of the developments.

Lesotho

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1966)

The Committee notes the information provided in the Government's report. The Committee also notes the Draft Amendment Bill (2006) to the Labour Code Order, 1992. Furthermore, the Committee notes that the International Confederation of Free Trade Unions (ICFTU) submitted comments on the application of the Convention in a communication dated 10 August 2006. In a general way, the ICFTU refers to some matters that the Committee has already raised and to difficulties in the procedure to call a strike.

Article 3 of the Convention. The Committee notes that section 198F of the new Draft Amendment Bill (2006) provides access to the enterprise (in order to communicate with management, recruit members or perform other trade union functions) only to an authorized officer or official of a trade union that represents more than 35 per cent of the employees. The Committee recalls that the right of trade union officers to have access to places of work and to communicate with management is a basic tenet of freedom of association that should be open to all trade unions, in particular, so that trade unions can communicate with workers in order to apprise them of the potential advantages of unionization (see General Survey on freedom of association and collective bargaining, 1994, paragraph 128). The Committee considers that the workers' freedom of choice would be jeopardized if the distinction between the most representative and minority unions results, in law or in practice, in granting privileges such as to influence unduly the choice of organization by workers (see General Survey, op. cit., paragraph 98). ***The Committee therefore requests the Government to indicate whether it has considered the practical effect that such a provision may have on the choice of workers of their trade union and to keep it informed in this respect.***

The Committee further notes that section 198G(1) of the Labour Code (introduced by section 41 of the Draft Amendment Bill) provides that the members of a registered trade union, which represents more than 35 per cent of the employees of an employer that employs ten or more employees, are entitled to elect union representatives. It appears therefore that the members of minority trade unions cannot vote and run for election as workplace representatives. The Committee considers that an advantage, such as the right to participate either as candidates or voters in the election of workplace representatives accorded to the union by reason of the extent of its representativeness, is of a nature to influence unduly the choice of the workers in respect of the organization to which they wish to belong. ***Therefore, the Committee requests the Government to amend section 198G(1) so as to allow all workers to participate either as candidates or voters in the election of workplace representatives.***

The Committee also notes that section 51 of the Draft Amendment Bill (amending section 232(5) of the Labour Code) provides that any strike in pursuance of a trade dispute that threatens the continuance of any essential service shall be unprotected. Because this new text seems to indicate that a strike may be considered as unprotected retroactively, from the moment it started, in cases where the Labour Commissioner of Labour Court find that the strike concerned an essential service, the effect is to place the burden upon the workers to decide whether a strike would fall within the scope of an essential service or not, before this issue is decided by the Labour Commissioner or the Labour Court. This is particularly important in light of the fact that workers may be dismissed or incur liability in tort not only for participating in an unprotected strike but also for any conduct in contemplation or furtherance of an unprotected strike (new section 231 of the Labour Code introduced by section 50 of the Draft Amendment Bill). ***Thus, in order to ensure predictability and security of law as to whether a particular service is essential or not, the Committee requests the Government to consider amending or supplementing the law by adding a list of specific services which are considered to be essential, i.e. services, the interruption of which might endanger the life, personal safety or health of the whole or part of the population (see General Survey, op. cit., paragraph 159). Alternatively, section 232(5) should provide that a strike becomes unprotected only if it continues after the Labour Court has decided that it concerns an essential service.***

The Committee recalls that it had previously noted with concern section 19 of the Public Services Act, 2005, according to which public officers were prohibited from engaging in strikes and requested information detailing the precise categories of workers restricted in their right to strike under this Act. The Committee notes the Government's indication that the restriction on the right to strike applies to all workers in the public service. The Committee further notes the Government's statements indicating that teaching staff employed in private schools and certain other learning institutions such as the National University of Lesotho and the Lerotholi Polytechnic are excluded from these restrictions. In these circumstances, the Committee once more emphasizes that the prohibition of the right to strike in the public service can only be limited to public servants exercising authority in the name of the State (see General Survey, op. cit., paragraph 158). ***Therefore, the Committee again requests the Government to take the necessary measures in order to amend section 19 of the Public Services Act, 2005, so as to bring it into conformity with the Convention.***

The Committee further recalls that its previous comments concerned the need to establish compensatory guarantees for those groups of public servants for which the prohibition of the right to strike would be justified. The Committee notes

that the Government makes general reference to the language of the legislation and, more specifically, to sections 17–20 of the Act. The Committee once again points out that section 17 only provides for non-binding conciliation and recalls that workers who may be deprived of the right to strike as a means “of defending their socio-economic and occupational interests should be afforded compensatory guarantees, for example conciliation and mediation procedures leading, in every deadlock, to arbitration machinery seen to be reliable by the parties concerned. It is essential that workers be able to participate in determining and implementing the procedure, which should furthermore provide sufficient guarantees of impartiality and rapidity; arbitration awards should be binding on both parties and, once issued, should be implemented rapidly and completely” (see General Survey, 1994, op. cit., paragraph 164). **Therefore, the Committee once again requests that the Government take the necessary measures to establish compensatory guarantees, in particular arbitration machinery for those workers who may be deprived of the right to strike, and keep it informed as to its progress in this regard.**

Articles 5 and 6. The Committee previously requested the Government to ensure that public officers’ associations established under the Act are guaranteed the right to establish federations and confederations and affiliate with international organizations. **As no information was provided by the Government in this respect, the Committee reiterates its previous request.**

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee notes the Government’s report and the comments submitted by the International Confederation of Free Trade Unions (ICFTU) on 10 August 2006, which refer in particular to problems of application of the Convention in practice in the textile sector and the denial of collective bargaining rights to public employees. **The Committee requests the Government to reply to these comments.** Moreover, the Committee takes note of the draft Amendment Bill, 2006, which amends several provisions of the Labour Code Order, 1992, and requests the Government to keep it informed of developments relating to its adoption, as well as to take into account those of its ensuing comments referring to specific provisions of the draft Amendment Bill. **The Committee also takes note of the comments of the Congress of Lesotho Trade Unions (COLETU) of 6 November 2006 and requests the Government to send its reply thereon.**

Article 4 of the Convention. 1. *Collective bargaining in the education sector.* The Committee further recalls the previous comments of COLETU indicating that, although the revision of the Public Service Act of 1995, to grant public service employees collective bargaining rights, was commendable, the Government continues to obstruct collective bargaining in the education sector. In this regard, the Committee notes with regret that the Government provides no information on the collective bargaining situation in the education sector, in spite of its previous comments and those of COLETU and the ICFTU respecting the same. **In these circumstances, the Committee asks the Government to reply to the unions’ comments, and once again requests the Government to take all necessary measures to promote a prompt and negotiated solution to the long-standing disputes concerning teachers who are not public servants engaged in the administration of the State.**

2. *Representativeness requirements for certification of a union as the exclusive bargaining unit.* The Committee notes that sections 39 and 40 of the draft Amendment Bill amend the provisions of the Labour Code concerning the issue of representativeness (sections 198A and 198B of the Labour Code), and that section 198B(1), as amended, now provides that any dispute about whether a trade union is representative shall be referred to the Directorate of Dispute Prevention and Resolution – an independent body according to section 46B(2)(b) of the Labour Code – for summary determination by an arbitrator. The Committee further notes that according to section 198B(2) of the Labour Code the arbitrator may, in making the determination, conduct a ballot “if appropriate” and make any necessary inquiries. In this respect, the Committee recalls that it is not necessarily incompatible with the Convention to provide for the certification of the most representative union in a given unit as the exclusive bargaining agent for that unit, provided a number of safeguards are provided. Where the procedure of certifying unions as exclusive bargaining agents has been established, such safeguards should include the following: (a) certification to be made by an independent body; (b) the representative organizations to be chosen by a majority vote of the employees in the unit concerned; (c) the right of an organization which fails to secure a sufficiently large number of votes to ask for a new election after a stipulated period; and (d) the right of an organization other than the certificated organizations to demand a new election after a fixed period, often 12 months, has elapsed since the previous election. **In the light of this principle, the Committee requests the Government to take the necessary measures to amend the Labour Code so as to: (1) introduce a formal requirement for a ballot to be held in cases of dispute concerning representativity, thereby removing the arbitrator’s discretion as to whether a ballot is “appropriate”; and (2) ensure that organizations failing to secure a sufficiently large number of votes, or new organizations, may ask for a new election after a certain period has elapsed since the previous election.**

3. *Recognition of the most representative union.* Previously, the Committee had noted that section 198A(1)(b) of the Labour Code defines “a representative trade union” as “a registered trade union that represents the majority of the employees in the employ of an employer”, and that section 198A(1)(c) specifies that “a majority of employees in the employ of an employer means over 50 per cent of those employees”. In this connection, the Committee recalls once again that, when the law stipulates that a trade union must receive the support of 50 per cent of the members of a bargaining unit to be recognized as a bargaining agent, and when no union covers more than 50 per cent of the workers, collective

bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members. *The Committee requests the Government to amend section 198A of the Labour Code so as to give effect to this principle concerning the promotion of collective bargaining.*

Liberia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It takes note of the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention referring to matters already raised by the Committee and to threats of arrest and prosecution by the police to civil servants who took part in a strike in 2005. *The Committee requests the Government to send its observations on these matters.*

For many years the Committee has been asking the Government to take the necessary steps to amend or repeal the following provisions, which are inconsistent with *Articles 2, 3, 5 and 10 of the Convention*:

- Decree No. 12 of 30 June 1980 prohibiting strikes;
- section 4601-A of the Labour Practices Law prohibiting agricultural workers from joining industrial workers' organizations;
- section 4102, subsections 10 and 11, of the Labour Practices Law providing for the supervision of trade union elections by the Labour Practices Review Board; and
- section 4506 of the Labour Practices Law prohibiting workers in state enterprises and the public service from establishing trade unions.

The Committee takes note with interest of a report of the judiciary and labour committees of the Senate on the passage of an act to repeal Decree No. 12 and requests the Government to furnish a copy of the repealing legislation with its next report.

Emphasizing the seriousness of these problems, the Committee expresses the firm hope that the Government will take all steps within its reach to repeal or amend these provisions of the Labour Practices Law in the near future in order to bring the legislation fully into conformity with the requirements of the Convention, and requests the Government to provide information in its next report on all measures adopted to this end.

The Committee reminds the Government that the technical assistance of the Office is available should it so desire.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It also takes note of the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention.

The Committee recalls that for many years, it has been commenting on the application of *Articles 1, 2 and 4 of the Convention* and, in particular, has asked the Government to take measures to ensure that:

- the legislation guarantees workers adequate protection against anti-union discrimination at the time of recruitment and during the employment relationship, accompanied by sufficiently effective and dissuasive sanctions;
- the legislation guarantees workers' organizations protection against acts of interference by employers and their organizations, including sufficiently effective and dissuasive sanctions; and
- employees in state-owned enterprises who are not public officials engaged in the administration of the State enjoy the right to collective bargaining.

The Committee points out the seriousness of the problems it has raised and expresses the firm hope that the Government will take all measures within its reach to bring the law and practice fully into conformity with the requirements of the Convention, and asks the Government to provide information in its next report on all measures taken to this end.

Libyan Arab Jamahiriya

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

The Committee notes the Government's reports and the comments submitted by the International Confederation of Free Trade Unions (ICFTU) on 10 August 2006, which primarily refer to points previously raised by the Committee.

Article 1 of the Convention. 1. *Protection against acts of anti-union discrimination.* In its previous comments, the Committee had drawn the Government's attention to the need to amend section 34 of Act. No. 107 of 1975, which protects workers against acts of anti-union discrimination but not at the time of recruitment. In this connection, the

Committee notes the Government's indications that discrimination at the time of recruitment is not possible as union membership is not part of the criteria by which employment offices place registered workers: given the system obtaining in Libyan Arab Jamahiriya, anti-union discrimination on the part of employers at the time of recruitment is not possible as workers are mandatorily recruited and placed through official employment offices. The Government states further that an employer shall not be authorized to set as a condition a worker's non-membership in a union at the time of recruitment. ***Taking due note of the Government's statement that measures would be undertaken to formulate clear texts when the new draft Act on regulating labour relations – already examined by the People's Congress in a first discussion – is promulgated, the Committee recalls that the protection against acts of anti-union discrimination provided for in the Convention also covers recruitment (see General Survey on freedom of association and collective bargaining, 1994, paragraph 210) and requests the Government to ensure, in the drafting of future legislation, that workers are protected from anti-union discrimination, including at the time of recruitment, and that dissuasive sanctions are provided for.***

2. With regard to its previous comments on the absence of legal protection against acts of anti-union discrimination for public servants not engaged in the administration of the State, agricultural workers and seafarers, the Committee notes that the Government provides no information in this respect. ***Recalling the Government's previous indication that it would take the Committee's observation into account by adopting the necessary measures when appropriate, the Committee once again expresses the hope that steps will soon be taken to provide, explicitly and by means of sufficiently dissuasive sanctions, protection against anti-union discrimination to all workers – including public servants not engaged in the administration of the State, agricultural workers and seafarers. The Committee asks the Government to keep it informed of the progress made in this regard.***

Article 4 of the Convention. 1. *Collective bargaining.* The Committee had previously referred to sections 63, 64, 65 and 67 of the Labour Code, which require the clauses of collective agreements to be in conformity with the national economic interest, thus violating the principle of the voluntary negotiation of collective agreements and the autonomy of the bargaining parties. In this respect, the Committee notes the Government's statement that the draft Act on regulating labour relations has resolved this issue. ***Further noting the Government's indication that the draft Act is still under examination by the People's Congress, the Committee once again expresses the hope that the draft Act would, upon adoption, repeal the abovementioned sections of the Labour Code and requests the Government to inform it of the progress made in this regard.***

2. The Committee notes the Government's indication that no collective agreements were concluded that cover public servants, agricultural workers and seafarers, and that the draft Act would, upon adoption, be supportive of collective agreements. ***In this regard the Committee expresses the hope that the draft Act or any other amendments to the Law envisaged by the Government will expressly grant to public servants not engaged in the administration of the State, agricultural workers and seafarers the right to bargain collectively, both in law and in practice.***

3. ***Noting the ICFTU's comments on the absence of real collective bargaining in practice, the Committee requests the Government to provide statistics on the number of collective agreements presently in force, by sector, and the number of workers covered.***

Lithuania

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1994)

The Committee notes the information contained in the Government's report. It further notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006 addressing issues previously raised by the Committee concerning strike restrictions and alleging that new rules for registering legal entities made the establishing of new trade unions more cumbersome. ***The Committee requests the Government to provide its observations thereon.***

Articles 3 and 10 of the Convention. Right of workers' organizations to organize their activities without interference from the public authorities. (a) *Prohibition of the right to strike by workers who are not employed in essential services in the strict sense of the term.* The Committee recalls that, in its previous observation, it requested the Government to amend section 78 of the Labour Code so as to lift the prohibition of the right to strike by workers in heating and gas supply companies. The Committee notes with interest the Government's statement that sections 77(4) and 78(1) of the Labour Code were amended so as to take into account the comments of the Committee. By virtue of these amendments, which came into force on 28 May 2005, the ban on strikes in centralized power, heat and gas supply companies was lifted. ***The Committee asks the Government to transmit a copy of these amendments.***

(b) *Unilateral determination of minimum service.* In its previous comments, the Committee requested the Government to amend section 80(2) of the Labour Code so as to ensure that, in the event of disagreement among the parties to negotiations on the minimum service, the definition of the service to be ensured may be determined by an independent and impartial body. The Committee notes the Government's indication that this proposal will be referred to the Tripartite Council for consideration. ***The Committee requests the Government to keep it informed of the outcome of the discussion of this issue by the Tripartite Council.***

A request on certain other points is being addressed directly to the Government.

Madagascar

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee takes note of the Government's report.

The Committee also takes note of the comments made by the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, which concern some legislative issues already raised in the Committee's previous observation as well as cases of government interference in trade union affairs, repression of trade unionists having participated in a strike in the public sector and impediment of the right to strike in the maritime sector. ***The Committee requests the Government to respond to the comments of the ICFTU.***

Furthermore, the Committee takes note of the enactment of Law No. 2003-044 of 28 July 2004 enacting the Labour Code. The Committee notes, however, that the process of development and adoption of the Code has not taken into account the issues that it had raised in its last comments and which concern the following.

Article 2 of the Convention. Workers governed by the Maritime Code. The Committee notes that the new Labour Code maintains the exclusion of its scope of workers governed by the Maritime Code. The Government indicates that the Committee's observations concerning trade union rights of seafarers have been communicated to the relevant department and that it will keep the Committee informed of any developments. ***Recalling that the Maritime Code in its present state does not contain sufficiently clear and precise provisions ensuring workers' right to form and join trade unions, as well as the pertaining rights, the Committee requests the Government to take the necessary steps to ensure that this right is recognized by the legislation and to keep it informed of any measure taken or envisaged in this regard. Concerning the General Maritime Trade Union of Madagascar (SYGMMMA), the Government indicates that it has been legally formed before the public authority and that it is functioning as the other trade unions which have been legally formed. The Committee takes note of this information.***

Article 3. 1. Representativeness of employers' and workers' organizations. The Committee notes that section 137 of the new Labour Code provides that the representativeness of employers' and workers' organizations participating in the national level social dialogue "is established with the elements provided by the concerned organizations and the labour administration". The Committee recalls that, in order to avoid any interference by the public authorities in the decision regarding the representativeness of professional organizations, this decision has to be made by an independent body having the trust of the parties and according to a process which guarantees impartiality. ***The Committee notes that a draft decree on trade unions and representativity has been elaborated and that it is presently before the National Work Council for discussion. The Committee requests the Government to keep it informed of developments in this regard.***

2. Compulsory arbitration. The Committee notes that according to sections 220 and 225 of the new Code, in case of failure of mediation, the minister in charge of labour and social laws refers a collective dispute either to a contractual arbitration procedure, in conformity with the collective agreement of the parties or to a judicial arbitral procedure before the jurisdiction's tribunal. The decision, which is final and without appeal, puts an end to the dispute and to any strike which could have started in the meantime. The Committee recalls that the resort to arbitration in order to put an end to a collective dispute can be justified only if it is requested by both parties and/or in case of a strike in essential services in the strict sense of the term, i.e. in services the interruption of which would endanger the life, health or personal security of all or part of the population. The Committee considers that, apart from the case where it stems from an agreement between parties, this arbitration procedure which gives rise to a final decision terminating a strike is, in sectors other than essential services, an interference from the public authorities in trade unions' organization, conflicting with *Article 3* of the Convention. ***Consequently, the Committee requests the Government to take all necessary measures to amend the new Labour Code in order to ensure the full right of workers' organizations to organize their activities and formulate their programmes of action without interference from public authorities, notably in the exercise of the right to strike in sectors other than the essential services, in conformity with Article 3.***

3. Requisitioning. The Committee further notes that section 228 of the new Code provides that the right to strike "cannot be limited by requisitioning only in cases of public order disruption or in cases where the strike would endanger life, security and health of all or part of the population". The Committee notes in this respect that the corresponding version of the draft Labour Code (section 199) reflects better the position of the supervisory bodies by referring to cases of "acute national crisis" and not to the notion of public order disruption. Moreover, this version constituted a clear improvement which could lead to section 21 of Law No. 69-15 of 15 December 1969 being repealed. This section provides for the possibility of requisitioning workers in cases of a state proclamation of national necessity. ***Noting that, according to the Government, the provisions of section 228 of the Code and the law of 15 December 1969 have the same aim, the Committee expresses the hope that section 228 of the new Code – as well as Law No. 69-15 – will be formally modified in accordance with the principles mentioned.***

4. Sanctions in case of strike action. Finally, the Committee takes note that, according to section 258 of the Labour Code, the "initiators and leaders of illegal strikes" shall be punished with a fine and/or imprisonment. The Committee recalls that sanctions should be available in case of a strike only when the ban is in conformity with the principles of freedom of association and that such sanctions are in proportion to the acts committed. ***While noting that, according to***

the Government, this provision has never been used, the Committee requests the Government to exclude, in all circumstances, recourse to imprisonment measures against those who have organized or participated in a peaceful strike.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1998)

The Committee takes note of the information in the Government's report and of Act No. 2003-044 of 28 July 2004 issuing the Labour Code. It also notes the observations of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU), most of which refer to legislative matters already raised by the Committee in previous comments, and to acts of anti-union discrimination.

Article 4 of the Convention. Determining representativity. 1. With reference to its previous comments, the Committee notes with interest that section 183 of the new Labour Code establishes a number of criteria for determining representativity in respect of organizations of employers and workers. The Committee notes that in its report, the Government states that there should be no ambiguity in determining the representativity of employers' and workers' organizations that participate at national level, since a draft text on this matter has been sent to the National Labour Council (CNT) for debate. ***The Committee requests the Government to keep it informed on this matter and to provide a copy of the text as soon as it is adopted.***

2. *Promotion of collective bargaining.* The Committee notes the Government's statement that the Ministry of Labour plans to carry out information and advocacy campaigns in 2006 on the need to organize negotiations, with training for enterprises that have decided to conclude a collective agreement. ***Noting that the new Labour Code protects collective bargaining above all in enterprises with more than 50 workers, the Committee requests the Government to promote collective bargaining in small and medium-sized enterprises and to keep it informed in this respect.***

3. *Collective bargaining for seafarers and public employees.* In its previous comments, the Committee requested the Government to provide additional information on the provisions applying to collective negotiation of the working conditions of seafarers covered by the Maritime Code and public servants not engaged in the administration of the State, together with data on the number of collective agreements and the number of workers covered.

The Committee notes that, in its report, the Government indicates that the Committee's comments have been sent to the various departments concerned. The Committee observes that the new Code continues to exclude public servants and maritime workers from its scope (section 1). ***The Committee recalls that under the Convention, both seafarers and public servants not engaged in the administration of the State must be able to enjoy the right to collective bargaining in the same manner as other categories of workers. It again requests the Government to take the necessary steps to ensure that specific provisions are adopted on the collective bargaining rights of seafarers governed by the Maritime Code and of public servants not engaged in the administration of the State. Please keep the Committee informed on this matter.***

4. *Compulsory arbitration when mediation fails.* The Committee notes that section 220 of the new Code provides that where mediation fails, the collective dispute may be referred by the Minister responsible for labour and social legislation to arbitration by the competent labour tribunal. The Committee reminds the Government that it should be possible to impose compulsory arbitration only in the public service (in connection with public servants engaged in the administration of the State) or in essential services in the strict sense of the term, or in the event of an acute national crisis. ***The Committee accordingly requests the Government to take the necessary steps to amend the legislation.***

Malawi

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1999)

The Committee notes that the Government's report has not been received.

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, which refer to issues previously raised by the Committee on the right to strike and allege acts of violence against a trade union organizer. ***The Committee requests the Government to send its observations on the ICFTU comments, including those dated 31 August 2005 concerning in particular violent police repression of a protest march by tea workers (see 2005 observation, 76th Session).***

In addition, in its previous comments, the Committee had noted that section 45(3) and 47(2) of the Labour Relations Act of 1996 empower the parties concerned to apply to the Industrial Relations Court for a determination as to whether a particular strike involves an essential service. ***The Committee once again requests the Government to provide information on any strike declared illegal and the reasons, therefore, as well as on any decisions rendered by the Industrial Relations Court under sections 45(3) and 47(2) of the Labour Relations Act.***

Finally, the Committee notes the Government's communication dated 2 October 2006 which refers to its reply in relation to the communication received from the Malawi Congress of Trade Unions concerning the application of the Convention. The Committee recalls that these comments were examined in the framework of Convention No. 98.

A request concerning other points is being addressed directly to the Government.

Malaysia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1961)

The Committee notes the Government's reports and the comments submitted by the International Confederation of Free Trade Unions (ICFTU) on 10 August 2006. The ICFTU's comments principally refer to matters previously raised by the Committee as well as to allegations of long delays in the disposition of claims for union recognition, and the establishment of a trade union by an employer in order to avoid recognizing and bargaining with another trade union. ***The Committee requests the Government to submit its observations thereon.***

1. *Article 4 of the Convention. Collective bargaining in "pioneer enterprises".* Previously, the Committee had urged the Government to repeal section 15 of the Industrial Relations Act (IRA), which limits the scope of collective agreements for companies granted "pioneer status", and had requested a copy of the repealing legislation upon its adoption. The Committee notes the Government's indication that discussions on the IRA with representatives of the employers and trade unions were in their final stages: the amendments to the IRA, which include the repeal of section 15, were expected to be submitted to Parliament for the December 2005 sitting. ***In this connection, the Committee, recalling that the repeal of section 15 of the IRA has been delayed for several years, once again urges the Government to ensure that there are no further delays in the repeal of this legislation and to keep it informed of developments respecting the adoption of the amendments to the IRA.***

2. *Restrictions on collective bargaining over certain issues.* The Committee had previously urged the Government to amend the legislation so as to bring section 13(3) of the IRA, which contains restrictions on collective bargaining with regards to transfer, dismissal and reinstatement (some of the matters known as "internal management prerogatives"), into full conformity with *Article 4* of the Convention. The Committee notes the Government's statement that section 13(3) of the IRA is not intended to limit collective bargaining, but rather to provide for the right of employers to run their business in the most efficient way and to protect from the abuse of the collective bargaining process. The Government further indicates that these requirements are not absolute; matters relating to them may be brought to the Industrial Relations Department and, where no settlement is reached, the matter is referred to the Industrial Court for adjudication. The Committee notes this information. ***It recalls, in this respect, that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 250) and once again urges the Government to amend section 13(3) of the IRA so as to remove the restrictions on collective bargaining. The Committee also requests the Government to indicate whether there are any decisions of the Industrial Court where the restrictions set forth in section 13(3) were successfully challenged and, if so, to transmit copies of the same in its next report.***

3. *Restrictions on collective bargaining in the public sector.* The Committee had previously requested the Government to provide information on the scope of collective bargaining under the auspices of the National Joint Council and the Departmental Joint Council. Specifically, it had asked the Government to indicate whether any limitations on the agreements produced by the consultations taking place within these bodies exist – particularly as to terms and conditions of service, the remuneration structure, and the form and scope of any agreements reached. In this regard, the Committee notes the Government's statement that the outcomes of consultations pertaining to salary and remuneration are subject to the decision of the Cabinet Committee on Establishment and Salaries of Employees in the Public Sector, and are to be tabled and legislated in Parliament. In these circumstances, the Committee recalls that, while the principle of autonomy of the parties to collective bargaining is valid as regards public servants covered by the Convention, the special characteristics of the public service described above require some flexibility in its application. Thus, legislative provisions allowing Parliament or the competent budgetary authority to set upper and lower limits for wage negotiations, or to establish an overall "budgetary package", within which the parties may negotiate monetary or standard-setting clauses (i.e. reduction of working hours, varying wage increases according to levels of remuneration), are compatible with the Convention, provided they leave a significant role to collective bargaining (see General Survey, op. cit. paragraphs 261–264). The Committee considers that subjecting all of the outcomes reached by the Councils' consultations on salaries and remuneration to the approval of the authorities, in particular the Cabinet Committee on Establishment and Salaries of Employees in the Public Sector, is not in conformity with *Article 4* of the Convention. ***It requests the Government to take the necessary measures to ensure for public servants not engaged in the administration of the State the right to bargain collectively, including over wages and remuneration, in keeping with the abovementioned principle on collective bargaining in the public sector.***

Mali

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the information contained in the Government's report.

Article 3 of the Convention. Right of workers' organizations to formulate their programmes without interference from the public authorities. In its previous comments, the Committee recalled the need to amend section L.229 of the Labour Code of 1992 in order to limit the power of the Ministry of Labour to impose arbitration to end strikes liable to cause an acute national crisis. This provision allows the Minister of Labour to refer certain disputes to compulsory arbitration, not only where they involve essential services, the interruption of which is likely to endanger the life, personal safety or health of the population, but also in cases where the dispute is liable to "jeopardize the normal operation of the national economy or involves a vital industrial sector". The Committee notes the Government's indication that it has not been able to give effect to its intention, expressed on several occasions, to review the Labour Code so as to revise provisions that are obsolete or in contradiction with the spirit of ratified Conventions, due to profound differences of interpretation respecting the nature of essential services. ***Noting that the Government has requested the Office's technical assistance, the Committee hopes that it will be able to note progress in the near future, and particularly that section L.229 will be amended in accordance with the provisions of the Convention.***

In its previous comments, the Committee also noted that the regulations on the maintenance of a minimum service were inconsistent with the provisions of the Convention and that the trade unions had not been consulted in the formulation of Decree No. 90-562 P-RM of 22 December 1990 establishing the list of services, positions and categories of workers strictly indispensable to the maintenance of a minimum service in the event of a strike in the public services. ***Regretting that the Government's report contains no reply on this matter, the Committee once again requests the Government to report on progress in the revision of the Decree of 1990 determining the minimum services to be provided in the event of a strike, in full consultation with the social partners.***

Malta

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1965)

The Committee notes that the Government's report has not been received.

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, alleging that strikers were suspended, unions' assets were frozen and unions were sued following industrial action. Furthermore, the ICFTU alleges death threats were made against leaders of the General Workers Union (GWU). ***The Committee requests the Government to take the necessary measures to conduct an inquiry concerning the alleged death threats against trade union leaders, to keep it informed of its result and to send its observations on the other comments made by the ICFTU.***

Article 3 of the Convention. In its previous comments, the Committee observed that section 74 of the Employment and Industrial Relations Act, 2002 appears to substantially repeat the provisions of the repealed Industrial Relations Act, 1976, imposing a compulsory arbitration procedure for labour disputes leading to a final award binding on all parties. Furthermore, it observed that it is unclear, however, whether the jurisdiction of the industrial tribunal, pursuant to section 75(1) of the Act, is limited to binding decisions on disputes of rights, or will also allow binding decisions in relation to disputes of interest. ***Noting that restrictions on strike action through a compulsory arbitration procedure constitute a prohibition that seriously limits the means available to trade unions to further and defend the interest of their members, as well as their right to organize their activities and to formulate their programmes (see 1994 General Survey on freedom of association and collective bargaining, paragraph 153), the Committee again asks the Government to clarify whether the Industrial Tribunal's jurisdiction is limited to questions arising from disputes of right, or whether it is also entitled to hear disputes of interest and issue binding decisions thereon.***

Finally, the Committee had noted that eight strikes were held in Malta during 2003 and requested the Government to provide details of how each of these strikes were resolved and, in particular, whether they were resolved by recourse to the Industrial Tribunal, as well as to continue to provide information on the number of strikes and use of the Minister's power to refer disputes to the Industrial Tribunal at the request of only one party. ***The Committee requests the Government to provide this information in its next report.***

The Committee is addressing to the Government a direct request concerning the Employment and Industrial Relations Act, 2002.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1965)

The Committee notes that the Government's report has not been received.

1. *Comments made by the International Confederation of Free Trade Unions (ICFTU).* The Committee notes the comments made by the ICFTU in a communication dated 10 August 2006 on the application of the Convention. The comments concern compulsory arbitration and the Public Holidays Act infringing upon provisions of collective agreements on holidays. ***The Committee points out that this question has been dealt with by the Committee on Freedom of Association which, in its recommendation, requested the Government to amend section 6 of the National Holidays and Other Public Holidays Act so as to ensure that this provisions: (i) does not render automatically null and void any***

provisions in existing collective agreements which grant workers the right to recover public holidays falling on a Saturday or Sunday; and (ii) does not preclude voluntary negotiations in the future over the issue of granting workers the right to recover national or public holidays which fall on a Saturday or Sunday on the basis of a collective agreement (see 342nd Report of the Committee on Freedom of Association, paragraph 752). The Committee requests the Government to keep it informed of the measures taken or envisaged to amend section 6 of the National Holidays and Other Public Holidays Act.

2. *Article 1 of the Convention.* In its previous observation, the Committee had observed that pursuant to section 75(1) of the Employment and Industrial Relations Act 2002 (EIRA), alleged unfair dismissals of certain categories of workers are excluded from the jurisdiction of the industrial tribunal and dealt with under separate legislation. ***The Committee asks again the Government to provide clarification of the procedures in place in relation to allegations of dismissal for reasons of anti-union discrimination for public officers, port workers and public transport workers.***

3. *Articles 2 and 3 of the Convention. Protection against anti-union discrimination and acts of interference.* In its previous comments, the Committee had observed that the EIRA did not expressly protect employers' and workers' organizations from acts of interference by one another, nor did it provide a rapid and effective appeal procedure or sanctions in the case of breach as is required to ensure compatibility with the Convention (see General Survey 1994, paragraph 232). ***The Committee again requests the Government to take measures in order that the legislation prohibits and sanctions acts of interference in a sufficiently dissuasive way.***

4. *Article 4 of the Convention. Collective bargaining.* In its previous comments, the Committee had noted the information provided by the Government that unions representing more than 50 per cent of employees or workers in any given establishment are normally granted recognition by employers, and eventually are invited to negotiate collective agreements governing the employees of that establishment. ***The Committee again requests the Government to indicate whether collective bargaining with trade unions representing less than 50 per cent of the employees is possible, at least on behalf of their own members.***

5. In its previous observations, the Committee had noted with concern that section 74 of the EIRA entitles the minister to refer an unresolved trade dispute to the industrial tribunal at the request of one party and that the industrial tribunal's decision in this matter will be binding. The Committee had also noted that pursuant to section 80 of the EIRA, in its capacity to decide trade disputes, the industrial tribunal is obliged to take into consideration the Government's social and economic policies and plans. The Committee recalls that, except in the case of public servants engaged in the administration of the State or essential services in the strict sense of the word, it is generally contrary to the principle of the voluntary negotiation of collective agreements established in the Convention, and thus the autonomy of the bargaining parties, for binding arbitration to be imposed by the authorities at the request of one party (see General Survey 1994, paragraph 257). ***The Committee again requests the Government to consider amending these provisions to ensure the compatibility of its legislation with the requirements of the Convention.***

Mauritania

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

The Committee notes the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) which address legislative matters already raised by the Committee, and practical problems in giving effect to the Convention (registration applications blocked at the Office of the Public Prosecutor and intervention by public authorities in favour of an organization). ***The Committee requests the Government to send its comments on these observations with its next report.***

Article 2 of the Convention. In its previous comments, the Committee noted that the procedure for acquisition of legal personality envisaged by the new Labour Code sets specific time limits and is ultimately subject to review by the courts, and that it applies to the amendment of the internal rules of trade unions. The Committee asked the Government to report any cases of refusal to issue a registration receipt and any rejection of amendments under this procedure. The Committee notes the Government's statement that it has been notified of no refusals to deliver registration receipts or rejections of amendments.

Article 3. Right of workers' organizations to elect their representatives in full freedom and to organize their administration and activities without interference from the public authorities. 1. In its previous comments, the Committee noted that section 278 of the new Labour Code extends the procedure for the establishment of trade unions to any changes in their administration or management. This provision therefore has the effect of subjecting such changes to the approval either of the Prosecutor-General or of the courts, and therefore gives rise to serious risks of interference by public authorities in the organization and activities of trade unions and their federations. In its report, the Government indicates that if the statutes as amended and the changes made to a union's administration or management are lawful, there is no reason for the Prosecutor-General to withhold approval, and that section 278 therefore needs no amendment. ***The Committee points out that the establishment and amendment of the statutes of an organization of workers is the responsibility of the organization itself and should not be subject to the prior consent of the public authorities in order***

to take effect. Accordingly, it once again asks the Government to amend section 278 so as to provide that any change in the administration or management of a union may take effect as soon as the competent authorities have been notified and without the requirement of their approval.

2. *Compulsory arbitration.* In its previous comments, the Committee observed that the new Labour Code, in sections 350 and 362, allows compulsory arbitration in instances which go beyond essential services in the strict sense and in situations which cannot be deemed to constitute an acute national crisis. According to section 362, a strike is unlawful when it occurs either during the course of mediation or after notification of the Minister of Labour's decision to refer the dispute to arbitration under the conditions set in section 350, or following the award of the Arbitration Council. The Committee noted in this connection that under section 350, the Minister of Labour may decide to refer a collective dispute to arbitration at any time, in light of the circumstances and impact of the dispute, and when he considers the strike to be prejudicial to public order or contrary to the general interest.

The Committee notes that in its report, the Government states that strikes are not prohibited and are one of the levers of freedom of association laid down in the Labour Code. Furthermore, the Minister decides to resort to arbitration only where he deems the strike to be prejudicial to public order or contrary to the general interest, i.e. to essential services, after mediation and conciliation proceedings have been exhausted.

The Committee nonetheless points out that the prohibition or restriction of the right to strike by means of compulsory arbitration can be justified only in the cases of: (1) 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; (2) an acute national crisis, and then only for a limited period and to the extent necessary to meet the requirements of the situation. *The Committee again asks the Government to take the necessary steps to amend the relevant provisions of the Labour Code so as to limit the prohibition on strikes by means of compulsory arbitration to essential services in the strict sense of the term and to situations of acute national crisis.*

3. *Duration of mediation.* Lastly, with regard to the prohibition on strikes for the duration of the mediation procedure established in section 362 of the Labour Code, the Committee pointed out that it is possible to require the exhaustion of conciliation and mediation procedures before a strike may be called on condition that the procedures are not so complex or slow that a lawful strike becomes impossible in practice or loses its effectiveness. The Committee observed in its last observation that the maximum period of 120 days for mediation provided in the Labour Code appeared too long in this respect. The Committee notes that in its report, the Government states that it could envisage reducing the maximum of 120 days in order to meet the Committee's demands and that a committee is to be set up to draft implementing legislation for the Labour Code. *The Committee requests the Government to report on the progress of the above committee's work and to inform it of the measures taken or envisaged to amend section 346 of the Labour Code.*

The Committee is addressing a direct request to the Government on other matters.

Mauritius

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1969)***

The Committee notes the Government's report and the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 10 August 2006. The ICFTU's comments mainly refer to issues previously raised by the Committee.

The Committee notes the conclusions of the Committee on Freedom of Association (CFA), in the follow-up of its recommendations respecting Case No. 2281 (see 342nd Report of the CFA, paragraph 137).

The Committee takes note of the Government's "White Paper on a new legal framework for industrial relations in Mauritius", released in 2004, in the context of, and further to the ongoing reforms to the labour law. The White Paper refers to a proposed new legislative framework for industrial relations, in the form of an employment and labour relations bill, and summarizes the main provisions of the proposed new legislation.

Article 2 of the Convention. Protection against acts of interference. The Committee had previously referred to the need to adopt legislation providing for protection against acts of interference. The Government indicates in this regard that no cases of interference had been reported during the period under review, and that the exercise for the replacement of the Industrial Relations Act (IRA) with new legislation is not over: the Bill containing, inter alia, the requirements of *Article 2* of the Convention, was introduced in the National Assembly in April 2005, but the Government decided not to proceed further with the presentation of the said Bill following its rejection by both the workers' and employers' organizations. The Government adds that, following the general elections in July 2005, a new Government was installed and a new Technical Committee was established within the Ministry of Labour, Industrial Relations and Employment to review the IRA. As both the trade unions and the Mauritius Employers' Federation had, in subsequent meetings of the Technical Committee, asked for the enactment of a new Bill embodying their respective principles and visions, the Government indicates that it will consider new proposals on the legislation before a new Bill is drafted. The Committee further notes that section 5 of the White Paper, which summarizes the proposed revisions to the legislation, contains an express prohibition against acts of interference by employers and employers and their organizations in the activities of workers'

organizations, and vice versa (Section 5.1.6). In these circumstances, the Committee once again expresses its firm hope that any new legislation adopted would not only expressly prohibit acts of interference by employers' organizations in the activities of workers' organizations – and vice versa – but also provide for rapid appeals procedures, coupled by sufficiently dissuasive sanctions, in order to provide effective protection against acts of interference. ***It once again requests the Government to continue to pursue its endeavours and to keep it informed of the progress made in the adoption of the new legislation.***

Article 4 of the Convention. Promotion of collective bargaining. The Committee had previously commented upon the low rate of collective bargaining in export processing zones (EPZs). In this respect, the Committee takes note of the Government's indication that new collective bargaining provisions were also dealt with in the above-discussed deliberations. ***Accordingly, the Committee again requests the Government to indicate in its next report the measures undertaken to promote collective bargaining in the specific sector of the EPZs, and to transmit its observations on the ICFTU comments concerning restrictions on the right to negotiate salaries in the public sector.***

The Committee reminds the Government that technical assistance from the ILO remains at its disposal and expresses the hope that the future legislation would be in full conformity with the requirements of the Convention.

Mexico

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1950)

The Committee notes the Government's report.

1. *Trade union monopoly in state bodies imposed by the Federal Act on State Employees and the Constitution.* The Committee recalls that for many years it has been commenting on the following provisions of the Federal Act on State Employees:

- (i) the prohibition of the coexistence of two or more unions in the same state body (sections 68, 71, 72 and 73);
- (ii) the prohibition of a trade unionist from leaving the union of which he or she has become a member (an exclusion clause under which the trade unionist loses his or her job by no longer being a member of the union) (section 69);
- (iii) the prohibition of re-election in trade unions (section 75);
- (iv) the prohibition of unions of public servants from joining trade union organizations of workers or rural workers (section 79);
- (v) the extension of the restrictions applicable to trade unions in general to the Single Federation of Unions of Workers in the Service of the State (section 84); and
- (vi) the imposition by law of the trade union monopoly of the National Federation of Banking Unions (section 23 of the Act issued under article 123(B)(XIIIbis) of the Constitution).

With regard to points (i), (iv), (v) and (vi), the Committee notes the Government's indication that the right to organize in Mexico is set out in clause XVI of article 123 of the Constitution which establishes, without restriction whatsoever, the right of workers to associate, and that the spirit of the freedom to organize established in that provision is fully universal, based on the personal right of each worker to associate and the recognition of a collective right to the establishment of trade unions. The Committee nevertheless recalls that for many years it has been making comments on sections 68, 71, 72, 73, 79 and 84 of the Federal Act on State Employees and on section 23 of the Act issued under article 123(B)(XIIIbis) of the Constitution in view of the lack of compliance with the provisions of the Convention and it recalls that, in its previous observation, it noted that the Federal Conciliation and Arbitration Tribunal had granted registration to trade union organizations in departments in which there is another union and that the Supreme Court of Justice issued a jurisprudential ruling in 1999 (No. 43/1999) guaranteeing the exercise of the right to freedom of organization of workers in the service of the Mexican State as it found that the requirement of a single trade union for officials in each Government department violates the social guarantee of the freedom to organize of workers as established in article 123(B)(X) of the Constitution. The Government further indicates that the Federal Conciliation and Arbitration Tribunal applies this jurisprudential ruling in its decisions. ***Under these conditions, the Committee requests the Government to take the necessary measures to amend the legislative provisions concerned so as to bring them into full conformity with the Convention.***

With regard to point (ii), relating to the exclusion clause, under the terms of which all workers lose their jobs if they leave the union, the Committee notes the Government's indication that, in accordance with ruling No. 43/1999 of the Supreme Court of Justice, the Federal Conciliation and Arbitration Tribunal (TFCA) upheld the resignations of workers from membership of various trade unions and the applications for membership of others in relation to 19 unions. ***Under these conditions, the Committee requests the Government, in accordance with the practice followed by the TFCA, to take measures to amend section 69 of the Federal Act on State Employees.***

In relation to point (iii), concerning the prohibition of re-election in trade unions, the Committee notes the Government's repeated indication that the TFCA applies ruling No. CXVII/2000 of the Supreme Court of Justice, in accordance with which section 75 of the Federal Act on State Employees, which prohibits the re-election of union leaders,

is in contravention of the principle of freedom of association set out in article 123 of the Constitution, and that the re-election of leaders in 34 unions has been noted. ***In this respect, the Committee requests the Government to keep it informed of any measure taken to amend section 75 of the Federal Act on State Employees, so as to bring it into conformity with the abovementioned ruling.***

Finally, the Committee notes the Government's indications concerning the Parliamentary initiatives submitted to Congress for the amendment, among others, of sections 68, 69, 71, 72, 73, 75, 79 and 84 referred to above. ***The Committee requests the Government to keep it informed of developments in the Parliamentary process relating to these legislative initiatives in the firm hope that all amendments of the Federal Act on State Employees will take into account the comments that it has been making for many years.***

2. *Prohibition upon foreign nationals from being members of trade union executive bodies (section 372(II) of the Federal Labour Act).* In its previous observation, the Committee noted the establishment of the Central Decision-Making Forum for the reform of the Federal Labour Act, within which a set of draft reforms to the Federal Labour Act was formulated and submitted to the legislative authority as a legislative initiative on 12 December 2002. In this respect, the Committee notes the Government's indication that this draft legislation was submitted to the Labour and Social Insurance Commission of the Chamber of Deputies for examination, analysis and opinion. The above Commission convened Parliamentary conferences in which coordinated work was undertaken by the two commissions of the Chamber of Deputies and the Senate. The Government indicates that the Bill contains the outcome of all the discussions and agreements reached by both employers and workers, and that the executive authorities facilitated the dialogue and promoted the agreements obtained. The Bill was converted into an overall reform with the agreement of the Plenary of Legislatures LVII and LIX and is currently undergoing bicameral examination. ***The Committee hopes that the Bill will amend section 372(II) referred to above and asks the Government to continue to keep it informed in its next report of developments in the Parliamentary process.***

3. *The limited right to strike of public officials who do not exercise authority in the name of the State.* The Committee recalls that for many years it has been commenting on the following issues:

- (i) Workers, including those who are employed in public banks, are only able to exercise the right to strike in one or more agencies of the public authorities when there is a general and systematic violation of the rights set out in article 123(B) of the Constitution (which provides that workers shall have the right to associate in the defence of their common interests) (section 94(4) of the Federal Act on State Employees and section 5 of the Act on Banking and Credit issued under article 123(B)(XIIIbis) of the Constitution). The Committee notes the Government's indication that the right to strike is not specifically recognized by the Convention, while emphasizing that it is duly acknowledged in the public service. It nevertheless notes that, in the particular case of bank employees, their functions are included among the category of essential services. In this respect, the Committee emphasizes that the prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State and to essential services (those the interruption of which would endanger the life, personal safety or health of the whole or part of the population), which do not include banking services. ***Under these conditions, the Committee once again urges the Government to take the necessary measures to amend the legislation in accordance with the provisions of the Convention. The Committee requests the Government to provide information in its next report on any measure adopted in this respect.***
- (ii) The requirement of two-thirds of workers in the public body concerned to call a strike (section 99(II) of the Federal Act on State Employees). The Committee notes the Government's indication that the suspension of the services of public servants could result in a generalized prejudice to citizens, for which reason the same rules should not be applied as to workers in general. In this respect, the Committee recalls that the ballot method, the quorum and the majority required should not be such that the exercise of the right to strike becomes very difficult, or even impossible in practice. ***Under these conditions, the Committee urges the Government to take the necessary measures to amend section 99(II) (for example, by requiring only a simple majority of the votes cast to call a strike). The Committee requests the Government to provide information in its next report on any measure adopted in this respect.***

Requisitioning. In its last observation, the Committee also noted that various laws on the public services contain provisions relating to the requisitioning of staff in cases, among others, in which the national economy could be affected (section 66 of the Federal Telecommunications Act, section 56 of the Act regulating the railways, section 112 of the Act respecting general thoroughfares, section 25 of the Act respecting the national vehicle register, section 83 of the Civil Aviation Act, section 5 of the internal rules of the Secretariat for Communications and Transport and section 26 of the internal rules of the Federal Telecommunications Commission). The Committee notes the Government's indication that the power of the federal Government to operate the necessary services in the event of a natural disaster, war, serious disturbance of public order or when preventing an imminent danger to national security, internal peace in the country or the national economy is only limited to cases in which such contingencies occur, with the result that when they do not happen the Government will not take action and there will therefore be no restriction on the right to strike of workers in the service of the State. The Committee recalls, as it has done in previous comments, that the reference to imminent danger to the national economy is too broad and that restrictions on the right to strike in circumstances in which the national economy may be affected could be contrary to the principles of the Convention and that the requisitioning of

workers who are on strike could be abused where it is used as a means of settling labour disputes (see 1994 General Survey on freedom of association and collective bargaining, paragraph 163). *The Committee therefore once again requests the Government to take measures to amend the above provisions and to provide information on this subject in its next report.*

Republic of Moldova

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee notes the Government's report.

It also notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2350 where it invited the Government to take the necessary measures to review the Fiscal Code in full consultation with the social partners concerned, with the aim of finding a mutually agreeable solution to the issue of fiscal treatment of membership fees paid by employers to their organizations, including considering the introduction of a tax regulation that would enable the deductibility of membership fees paid by employers to their organizations should there indeed be discrimination in fiscal treatment found (see 338th Report, paragraph 1085(b)). The Committee notes with satisfaction that, by Law No. 268-XVI of 28 July 2006, the Fiscal Code was amended so as to allow tax deductibility of membership fees.

In its previous comments, the Committee had noted section 6 of the Law on Employers' Organizations, which required at least ten employers to create an employers' organization, and recalled that such a requirement for membership was too high and likely to be an obstacle to the free creation of employers' organizations. *The Committee once again requests the Government to keep it informed of the developments regarding a draft bill amending the law on employers' organizations, referred to in the Government's earlier report and in particular, its section 6.*

The Committee notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in its communication dated 10 August 2006 and the comments transmitted by the Confederation of Trade Unions of the Republic of Moldova (CSRM) in communications dated 14 and 23 August 2006. The Committee further notes the reply provided by the Government to the comments submitted by the ICFTU in its communication dated 31 August 2005. The Committee notes that the allegations submitted by the ICFTU concern issues of interference by the Government in internal affairs of the CSRM and its affiliates. In this respect, it notes the interim conclusions and recommendations of the Committee on Freedom of Association in Case No. 2317 and, in particular, its recommendation to conduct independent inquiries into all alleged instances of pressure exercised upon the trade unions affiliated to the Union of Education and Science, the AGROINSIND, the Federation of Unions of Chemical Industry and Energy Workers, the "Moldsindcoopcomet" Federation, the "Raut" Trade Union, the Trade Union of Workers of Cadastre, Geodesy and Geology "SindGeoCad" and the Trade Union of Culture Workers (see 342nd Report, paragraph 878(h)). *The Committee requests the Government to keep it informed in this respect.*

The Committee is raising certain other points in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1996)

The Committee notes the Government's report.

Comments made by the Confederation of Trade Unions of the Republic of Moldova (CSRM) and the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention. The Committee notes the comments made by the CSRM and the ICFTU in communications of 2005 and 2006, respectively, concerning the application of the Convention. The observations of both organizations concern legislative issues raised in the previous comments of the Committee, and more particularly to the absence of specific sanctions to be imposed for violation of trade union rights, as well as the violation of trade union rights in practice, as alleged in Case No. 2317 examined by the Committee on Freedom of Association in its 335th Report. According to the allegations, the Government has adopted a new Penal Code but it does not include sanctions regarding violations against trade unions. The allegations also concern acts of interference of the authorities in the organization of trade unions in the health sector, in the culture sector and in the education sector. *The Committee regrets that the Government has not replied to these comments and requests the Government to send its reply without delay.*

In its previous comments, the Committee had pointed out some discrepancies between the legislation and the Convention. The Committee regrets that the Government has not replied specifically to these comments. It must therefore repeat its previous observations.

Article 1 of the Convention. Protection against acts of anti-union discrimination. The Committee had noted that neither the Labour Code nor the new Penal Code adopted in April 2002, provided for specific sanctions to be imposed on employers found guilty of anti-union discrimination. The Committee had recalled that the effectiveness of legal provisions depends, to a large extent, on the way in which they are applied in practice and on the forms of compensation and sanctions provided. Legal standards are inadequate if they are not coupled with effective and expeditious procedures and

with sufficiently dissuasive sanctions to ensure their application (see General Survey on freedom of association and collective bargaining, 1994, paragraph 224). ***The Committee again requests the Government to adopt specific provisions providing for sanctions to be imposed on employers found guilty of anti-union discrimination.***

Article 2. Protection against acts of interference. The Committee had noted that the new Penal Code does not provide for sanctions against acts of interference. The Committee was of the view that legislation should make express provisions for rapid appeal procedures, coupled with effective and dissuasive sanctions against acts of interference in order to ensure the application in practice of *Article 2* of the Convention. Moreover, to ensure that these measures receive the necessary publicity and are effective in practice, the relevant legislation should explicitly lay down appeals and sanctions in order to guarantee the application of provisions prohibiting acts of interference (see 1994 General Survey, op. cit., paragraph 232). ***The Committee again requests the Government to adopt legislative provisions providing for effective and sufficiently dissuasive sanctions (civil administrative or penal) against acts of interference.***

Article 4. Compulsory arbitration. The Committee had noted that, pursuant to section 360(1) of the Labour Code, if the parties to the collective labour dispute have not reached an agreement or disagree with the decision of the reconciliation commission, each of the parties to the dispute has the right to submit an application to settle the conflict in the judicial tribunals. As regards arbitration imposed by the authorities at the request of one party, the Committee had considered that it is generally contrary to the principle of the voluntary negotiation of collective agreements established in the Convention and thus the autonomy of the bargaining partners. Recourse to compulsory arbitration in cases where the parties do not reach an agreement through collective bargaining would be permissible only in the context of essential services in the strict sense of the term (i.e. services, the interruption of which, would endanger the life, personal safety or health of the whole or part of the population) and for public servants engaged in the administration of the State. ***The Committee requests again the Government to take measures to amend the legislation so as to ensure that referral of the dispute to the judicial tribunals is possible only upon request by both parties to the dispute.***

Morocco

Right of Association (Agriculture) Convention, 1921 (No. 11) (ratification: 1957)

The Committee takes note of the information provided by the Government, as well as the entry into force of the Labour Code on 8 June 2004, repealing the Dahir of 16 July 1957 on trade unions.

The Committee notes that, in its report, the Government indicates that the provisions of the Labour Code confirm the rights that have been gained since 1957 in relation to the right of organization and at the same time reinforce the exercise of freedom and union rights, within and outside the company, and that the new provisions of the chapter related to freedom of association aim at a better harmonization of the national legislation with international labour standards. The Committee takes note of the information given by the Government according to which there are no restrictions on the exercise of freedom of association by agricultural workers, and that they may affiliate freely to the trade unions of their choice (section 398). The national trade unions represent and supervise the working class in general without any distinction as to the sector in which work is practiced (section 396) but certain groups of affiliated trade unions nevertheless have trade union structures aimed at workers in the agricultural sector. The Government underlines that control of the application of the Labour Code in the agricultural sector is entrusted to the agents of the inspection of the social laws in agriculture related to the Minister of Employment and Professional Training (section 530) and that no complaints regarding the application of these provisions have been referred to the courts of justice, and they have not delivered any decisions of principle regarding the application of the Convention. The Committee takes note of this information.

Mozambique

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee takes note of the Government's report, as well as of the draft Labour Code recently presented to the General Assembly of the Republic.

The Committee noted in its previous comments that public servants do not have the right to organize. In this respect, the Committee notes the preliminary draft legislation on the exercise of trade union activities in the public administration which, in section 5, recognizes the right of public servants and state officials in the public administration to organize to defend and further their socio-occupational interests. The Committee further notes that, under the terms of section 2(1) of the draft text, the Act will cover the central institutions of the public administration, local state bodies and authorities, public institutions and other subordinate or dependent institutions. However, the Committee observes that certain of the provisions of the draft legislation raise problems of conformity with the Convention:

- section 2(2) excludes firefighters, members of the judicial authorities and prison guards from the scope of the Act. The Committee recalls that *Article 2 of the Convention* provides that all workers, without distinction whatsoever,

shall have the right to establish and to join organizations of their own choosing and that, in accordance with *Article 9* of the Convention, only the armed forces and the police may be excluded from the right to organize;

- section 42(2) provides that public officials have the right to strike once conciliation, mediation and arbitration machinery has been exhausted. In this respect, the Committee recalls that compulsory arbitration in the public administration may only be imposed in the case of public servants exercising authority in the name of the State;
- section 43 provides for the possibility of imposing disciplinary, civil and criminal sanctions in cases in which the strike affects the rights and interests of third parties, when it impedes or disturbs the exercise of the right to work by officials or employees who are not on strike and when it disturbs the operation of services which are not on strike. In this respect, the Committee recalls that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association. Even in such cases, both excessive recourse to the courts in labour relations and the existence of heavy sanctions for strike action may well create more problems than they resolve. Since the application of disproportionate penal sanctions does not favour the development of harmonious and stable industrial relations, if measures of imprisonment are to be imposed at all they should be justified by the seriousness of the offences committed and should be subject to regular judicial review. In any case, a right of appeal should exist in this respect (see 1994 General Survey on freedom of association and collective bargaining, paragraph 177);
- section 46(2) provides for sentences of imprisonment and fines in cases in which a strike picket obstructs the freedom of services to operate normally. In this respect, the Committee refers to the principle set forth in the previous paragraph.

Under these conditions, the Committee hopes that the law that is adopted will be in full conformity with the Convention and requests the Government to provide information in its next report on developments relating to the draft legislation.

Finally, the Committee notes the comments made by the International Confederation of Free Trade Unions (ICFTU) referring to matters already raised by the Committee, as well as the dismissal of workers in export processing zones in reprisal for exercising the right to strike. The Committee notes that, according to the Government, the workers dismissed for exercising the right to strike in export processing zones did not respect the requirements provided by the legislation for declaration of strike and the minimum services. In this respect, the Committee recalls that dismissals of strikers on a large scale involve a serious risk of abuse and place freedom of association in grave jeopardy. The Committee notes with concern dismissals of strikers on a large scale. *It therefore requests the Government to provide detailed information on the circumstances in which the strike took place, on the authorities which declared the strike illegal and the authority which authorized the dismissals.*

In conclusion, the Committee notes the preliminary draft of the Labour Code of June 2006. The Committee is addressing a request directly to the Government with reference to this preliminary draft text and other matters.

Myanmar

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1955)

The Committee notes the Government's report. The Committee observes that it does not contain any specific information concerning the questions raised in its previous comments, but rather refers once again to the constitutional process following which labour laws will be elaborated.

The Committee notes the conclusions and recommendations reached by the Committee on Freedom of Association in its interim report concerning Case No. 2268 (340th Report, paragraphs 1064–1112) and in particular observes that it requested the Government to institute an independent inquiry into the alleged murder of a trade unionist, Saw Mya Than, and to release Myo Aung Thant from prison.

The Committee also notes the comments of the International Confederation of Free Trade Unions (ICFTU), dated 12 July 2006, concerning numerous and grave matters that have been raised by the Committee over the years, including the current situation of an obscure legislative framework; a single trade union system; military orders and decrees further limiting freedom of association; the prohibition of trade unions; “workers’ committees” organized by the authorities; the Federation of Trade Unions of Burma (FTUB) forced to work underground and accused of terrorism; and the repression of seafarers even overseas and the denial of their right to be represented by the Seafarers’ Union of Burma (SUB). The Committee notes that the Government’s observations concerning matters raised by the ICFTU mainly refer to its previous communications. In addition, the ICFTU has referred to the following allegations:

- (1) The police arrest on 17 April 2005 of four workers (Hlae Hlae Khaing, Zin Min Khing, Moe Thi and Mar Mar) following a strike at a garment factory in Hlaingthayar industrial zone, and their imprisonment in Rangoon for allegedly having broken the law through their actions connected with the factory. Workers of the factory went on strike on 18 April demanding their immediate release. On 19 April, police and military, led by Major Tin San, converged on the factory, which they unilaterally declared closed until further notice. Threats of arrests were made

against the workers if they didn't cease their strike. Finally, Major General Myint Swe, the Rangoon Army Commander, arrived on the scene with nine prison transport trucks and delivered an ultimatum – either to vacate the compound immediately or the Army would arrest them all. The workers immediately ceased their strike, and left the factory. On 2 May the four arrested workers were released from prison.

- (2) Saw Thoo Di, a.k.a. Saw Ther Paw, a Karen Agricultural Workers' Union (KAWU) committee member from Kya-Inn township, Karen State, was arrested by an armed column of Infantry Battalion 83 outside his village on 28 April, tortured and shot dead.
- (3) The State Peace and Development Council (SPDC) military learnt that on 30 April, the FTUB and Federation of Trade Unions – Kawthoolei (FTUK) were preparing a May Day workers' rights commemoration in Pha village and sent in Light Infantry Battalion 308, which shelled the village with mortars and rocket propelled grenades, seeking to kill the organizers and disrupt the preparations.
- (4) In early June 2005, the SPDC uncovered an underground network of ten FTUB organizers in the Pegu area who were providing support and education to workers and serving as a networking and information link to FTUB structures abroad. Seven men and three women were arrested. In a press conference held on 28 August, the SPDC leaders accused the organizers of having used satellite phones to convey information from inside Burma to the FTUB, which then provided information to the ILO and the international trade union movement. The arrested FTUB members were taken to the infamous Aug Tha Pay interrogation centre in Mayangone district of Rangoon where they were investigated and tortured by special branch police and Bureau of Special Operations (military intelligence) personnel during the months of June and July. On 29 July, they were transferred to Insein prison, and their case sent to a special court that conducts its hearings inside the prison. During the secret trial, they were denied access to outside council or witnesses, and the proceedings clearly did not meet international judicial standards. They were all found guilty and were sentenced on 10 October. Wai Lin and Win Myint, as key leaders of the network, respectively received sentences of 25 years and 18 years, the other five men and two of the women (Hla Myint Than, Major Win Myint, Ye Myint, Thein Lwin Oo, Aung Myint Thein, Aye Chan, Kin Kyi), each received seven-year jail terms, and bank clerk Ma Aye Thin Khine was sentenced to three years of imprisonment.
- (5) On 3 November 2005, FTUB organizer Aung Myint (see above) died under mysterious circumstances in his cell at Insein prison. When arrested on 2 July, along with other members of the FTUB Pegu network, he was physically fit and in good health. The authorities told the family that he died of dysentery, but refused to turn over the body to his relatives for a funeral, making it impossible to ascertain whether he died from abusive treatment, disease, or other cause. Police officials cremated the body themselves.
- (6) Myo Aung Thant, a member of the All Burma Petro-Chemical Corporation Union, was arrested in 1997 and charged at the time with high treason for maintaining contacts with the FTUB. Now the SPDC has explained that he was jailed for ten years for high treason under section 122(1) of the Penal Code, plus seven years for violations of the Emergency Provisions Act, plus three years for violating the Unlawful Associations Act. Myo Aung Thant is detained in a remote part of the country at Myitkyina prison in Kachin State, and was, according to his family, in the course of 2005 held in solitary confinement in a small, windowless cell.
- (7) Thet Naing, another underground FTUB leader, was released from Myitkyina prison in November 2004 after serving a seven-year sentence following his rearrest for his role in leading a workers' protest in the Yam Ze Kyang garment factory. He continues to be affected by nerve damage suffered from the torture he was subjected to during his interrogation and the mistreatment he received while in jail. He has now left the country and joined the FTUB abroad.

The Committee regrets that the Government did not provide detailed observations on these serious allegations made by the ICFTU in 2005 and 2006 and urges the Government to include a detailed reply in its next report.

The Committee most strongly deplores these most recent and serious allegations which detail a long list of trade unionists who have been arrested, detained, tortured and sentenced to many years of imprisonment for the exercise of their trade union activities, including the mere sending of information to the FTUB. The Committee recalls once again that respect for civil liberties is essential for the exercise of freedom of association and that workers and employers should be able to exercise their freedom of association rights in a climate of complete freedom and security, free from violence and threats and that a climate of violence, in which murders and disappearances of trade union leaders go unpunished, constitutes an extremely serious obstacle to the exercise of trade union rights and that such acts require severe measures to be taken by the authorities. The authorities should not seize on legitimate trade union activities as a pretext for arbitrary arrest or detention. Furthermore, as regards, more specifically, torture, cruelty and ill-treatment, the Committee points out that trade unionists, like all other individuals, should enjoy the safeguards provided by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and governments should give the necessary instructions to ensure that no detainee suffers such treatment (see 1994 General Survey on freedom of association and collective bargaining, paragraphs 29 and 30). ***The Committee therefore urges, once again, the Government to provide information on measures adopted and instructions issued without delay so as to ensure respect for the fundamental civil liberties of trade union members and officers and to take all necessary measures to release all those who have been imprisoned for the exercise of trade union activities immediately and to ensure that no worker is sanctioned for***

the exercise of such activities, in particular for having contacts with workers' organizations of their own choosing. The Committee firmly hopes that the Government will soon be in a position to indicate progress in this respect.

Concerning the legislative framework (*Articles 2, 3, 5 and 6 of the Convention*), the Committee recalls that it had noted in its previous observation a total lack of progress towards establishing a legislative framework under which free and independent workers' organizations could be established. Furthermore, it recalls that, for several years, it has indicated that there exist some pieces of legislation containing important restrictions to freedom of association or provisions which, although not directly aimed at freedom of association, can be applied in a manner that seriously impairs the exercise of the right to organize. More specifically: (1) Order No. 6/88 of 30 September 1988 provides that the "organizations shall apply for permission to form to the Ministry of Home and Religious Affairs" (section 3(a)), and states that any person found guilty of being a member of, or aiding and abetting or using the paraphernalia of, organizations that are not permitted shall be punished with imprisonment for a term which may extend to three years (section 7); (2) Order No. 2/88 prohibits the gathering, walking or marching in procession by a group of five or more people regardless of whether the act is with the intention of creating a disturbance or of committing a crime; and (3) the Unlawful Association Act of 1908 provides that whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term which shall not be less than two years and more than three years and shall also be liable to a fine (section 17.1).

Noting the Government's statement that it will send the draft labour laws concerning the protective measures of the workers as soon as the new State Constitution is finalized, the Committee cannot but regret once again the long delay in the adoption of the Constitution and the fact that, in the meantime, no progress has been made on the particularly serious and urgent issues it has been raising for nearly 20 years now. The Committee once again urges the Government to furnish a detailed report on the concrete measures taken to enact legislation guaranteeing to all workers and employers the right to establish and join organizations of their own choosing, as well as the rights of these organizations to exercise their activities and formulate their programmes and to affiliate with federations, confederations and international organizations of their own choosing without interference from the public authorities. It further urges the Government in the strongest terms to repeal Orders Nos. 2/88 and 6/88 as well as the Unlawful Association Act, so that they cannot be applied in a manner that would infringe upon the rights of workers' and employers' organizations. It requests the Government to communicate any relevant draft laws, orders or instructions made in this regard so that it may examine their conformity with the provisions of the Convention.

[The Government is asked to report in detail in 2007.]

Namibia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1995)***

The Committee notes that the Government's report has not been received. It also notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) on 31 August 2005 and 10 August 2006 and the Government's reply thereon.

Article 2 of the Convention. Protection from acts of interference. In previous comments, the Committee had referred to the absence of provisions in the Labour Act, 1992, protecting employers' and workers' organizations from acts of interference in each others' affairs. In this regard the Committee notes that section 49(f) of the 2004 Labour Act makes it an unfair labour practice for employers' organizations to "seek to control any trade union or federation of trade unions". It notes further that unions may, under section 50 of the Act, refer complaints of interference to the Labour Commissioner for arbitration, or petition the competent court for relief. *Taking into account the fact that the new draft Labour Code has not yet been adopted, the Committee recalls that the law should make express provision for rapid appeal procedures, coupled with effective and dissuasive sanctions against acts of interference (see General Survey of 1994 on freedom of association and collective bargaining, paragraphs 230–232) and requests the Government to take the necessary measures so that the legislation include sufficiently dissuasive sanctions against acts of interference. The Committee also requests the Government to confirm that the competent courts may, within its power to order appropriate forms of relief, also issue cease-and-desist orders regarding acts of interference, and to transmit any copies of judicial decisions or summaries respecting acts of interference in its next report.*

Article 4 of the Convention. Recognition for the purpose of collective bargaining. *The Committee requests the Government to confirm that when no union or group of unions covers more than 50 per cent of the workers, collective bargaining rights are granted to the unions in the unit, at least on behalf of their members.*

Scope of the Convention. The Committee notes that section 2(d) of the Labour Act exempts from the scope of its provision employees covered by the Prisons Service Act (No. 17 of 1988). *In this respect the Committee requests the Government to indicate whether the prison staff covered by the Prisons Service Act possess the right to bargain collectively over the terms and conditions of their employment.*

Finally, the Committee requests the Government to indicate the status of the draft Labour Code.

Nepal

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1996)

The Committee notes the Government's report and in particular the Constitution of the Kingdom of Nepal, 1990 (now amended through the newly reinstated House of Representatives (HOR) declaration) which guarantees its citizens the right to freedom of association.

1. *Comments of the International Confederation of Free Trade Union (ICFTU).* The Committee notes the comments made by the ICFTU in a communication dated 10 August 2006 on the application of the Convention. The comments concern: (1) the restrictions on the trade union rights that were suspended by the state of emergency following the coup d'état on 1 February 2005; (2) the amendments made to the Civil Service Ordinance Act of 1992 on 14 July 2005 which would forbid the formation of any association or union of civil servants except for those specified by the Government and undercuts the ability of civil servants to collectively bargain by unilaterally determining conditions of employment in the civil service; and (3) the fact that although the Labour Act provides for collective bargaining, the structure to implement the necessary provisions are not in place. ***The Committee requests the Government to provide its observations on the comments made by the ICFTU.***

2. *Article 1 of the Convention. Anti-union discrimination.* In its previous comments, the Committee had noted the issue of legislative protection against anti-union discrimination and had expressed the firm hope that the Government will take the necessary steps to ensure the enactment of a provision providing explicit protection against anti-union discriminations, accompanied by effective and sufficiently dissuasive sanctions. The Committee notes that the Government states that: (1) committees will be instituted for the revisions of the relevant legislation which will note the Committee's comments; and (2) it will inform the Committee of any further developments. ***The Committee requests once again the Government to keep it informed of further developments in this regard and in particular the progress of the work of the Labour Law Review committee considering the issue.***

3. *Article 2. Acts of interference.* In its previous comments, the Committee had asked the Government to ensure the enactment of a provision providing protection to workers' and employers' organizations against acts of interference by one another, and including effective and sufficiently dissuasive sanctions guaranteeing adequate protection to trade unions against acts of interference in their establishment, functioning or administration and, in particular, against acts which are designed to promote the establishment of workers' organization under the domination of employer's organizations, or to support workers' organizations by financial or other means, with the objective of placing such organizations under the control of employers or employer's organization. The Committee notes that the Government states that the advice of the Committee will be taken care of during the next amendment and in the meantime, the issue will be discussed in various tripartite forums to reach a consensus. ***The Committee requests once again the Government to keep it informed of developments in this regard.***

4. *Article 4. Collective bargaining.* In its previous comments, the Committee had requested the Government to abrogate section 30 of the Trade Union Act, which gives special powers to the Government to restrict trade union activities considered against the economic development of the country. The Committee notes that the Government states that section 30 of the Trade Union Act is an emergency preventive measure, that this section has never been invoked and put into practice yet, that this provision is not meant to restrict trade union rights, that it will not be invoked against their interest and that this issue will be discussed with the social partners during subsequent legislative reform. ***However, the Committee recalls that the section confers without ambiguity broad powers to the authorities which could impair the guarantees set out in the Convention, and requests once again the Government to take the necessary measures to abrogate section 30 of the Trade Union Act in the near future and to keep the Committee informed of developments in this regard.***

5. In its previous comments, the Committee had requested the Government to provide a copy of the Essential Services Act, 1957, which seemed to impose restrictions on the right to organize and bargain collectively. The Committee notes that the Government states that the main intent of the Essential Services Act is to safeguard the rights of the public to the essential services and not to curtail the rights of workers' unions, that it becomes equally necessary to ensure that the rights of the other party are adequately taken care of and that some provisions should be in place to safeguard larger public interest and save the country in time of crisis and emergency. ***The Committee requests once again the Government to provide it with a copy of the Essential Services Act, 1957, even if the English version is not available.***

6. *Article 6.* In its previous comments, the Committee had asked the Government to provide copies of the National Directive Act, 1962, the Civil Service Act, examples of collective agreements concerning employees of the public enterprise or public institution employing civil servants not engaged in the administration of the State and copies of Acts concerning the right to organize and bargain collectively of teachers and other civil servants who do not fall within the ambit of the Civil Service Act. The Committee notes that the Government states that: (1) employees of public enterprises are recruited according to their own respective laws and regulations and are not staffed by civil servants; (2) the Civil Service Act does not apply to them, therefore they can exercise their rights to organize and collective bargaining; and (3) the teachers of the public schools, though they are government employees, can exercise the right to collective bargaining.

The Committee notes that the reinstated Parliament has declared that up to gazetted civil servants up to the second class will be allowed trade union rights, that the Government has already presented the amended civil service act bill in Parliament to this effect and that the civil servants at the non-gazetted level (now proposed up to second-class level) are enjoying these rights with their own separate union. *The Committee requests once again the Government to provide copies of the mentioned Acts, even if a translation in English is not available, and to indicate the civil servants categories included in the first-class level.*

Netherlands

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1950)

The Committee notes the Government's report. It recalls that it had previously asked the Government to transmit its observations on the comments submitted on September 2004 by the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation for Middle and High Level Employees (MHP). The Committee will address these matters in its observation on the application of Convention No. 98.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1993)

The Committee takes note of the Government's report.

1. *Extension of collective agreements.* In its previous comments, the Committee had noted the comments made by the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation for Middle and Higher Level Employees (MHP) concerning the Government's policy to refuse the extension of collective agreements if they lead to a rise in wages or if they increase the legal minimal obligatory wage payment during sick leave. The Committee notes with satisfaction that, in its report, the Government indicates that the proposed measure not to order the extension of some elements of collective agreements was revoked by a decree of 21 December 2004, following a central agreement with the organizations of social partners.

2. *Independence of trade unions.* The Committee had noted that, according to the Netherlands Trade Union Confederation (FNV) and, most recently, the CNV, when the Minister of Social Affairs and Employment declares applicable *erga omnes* a sectoral collective agreement, an employer can be exempted from its application if it has concluded another collective agreement with a trade union at the enterprise level, without any safeguards to ensure trade union independence and avoid the weakening of sectoral collective agreements in this context.

The Committee notes the most recent comments of the FNV acknowledging a relevant change of policy regarding this issue, but indicating its lack of ease with the dispensation policy because it consists essentially of a difficult and laborious case-by-case assessment of a collective labour agreement's legitimacy on the basis of indications and suspicions with regard to the independence of the employees' association party to that agreement. Furthermore, the FNV indicates that this independence being assumed, it is still unacceptable that the employer bound by such a company-level collective agreement could claim to be automatically exempted from the extension order (concerning the sectoral collective agreement) in respect to all his employees and without any test to ascertain whether the trade union which is the other party to that company-level agreement is, compared with those trade unions being party to that company-level agreement, sufficiently (relatively more) representative for the employees within that company-level agreement's coverage (i.e. the total number of the company's employees). The FNV maintains that this provokes dissidence and fragmentation, undermines sectoral collective bargaining and is therefore inconsistent with the aim of the public administrative instrument of declaring a (sectoral) collective agreement's provision generally applicable. Noting that a survey conducted in June 2003 identified some cases of lack of independence of enterprise-level trade unions vis-à-vis employers in the framework of the extension of sectoral collective agreements, the Committee had invited in its previous comments the Government to initiate discussions with the most representative employers' and workers' organizations with a view to identifying appropriate means for addressing the issue raised by the FNV and the CNV.

The Committee notes that in its report the Government indicates that, since 2003, there have been only a few situations in which there was discussion about the independence of a trade union involved in a collective agreement. In situations where there is a discussion about independence, the Ministry of Social Affairs and Employment can investigate the situation and involve the results of the investigation in the decision making about extension orders concerning the sectoral collective agreements and the exemption from an extension order. According to the Government, the possibility of an extension order supports the possibility of tailor-made collective agreements in subsectors or companies. Furthermore, according to the Government, it has been discussing the policy on exemption from extension orders with the Labour Foundation (in which central organizations of social partners are represented) since March 2006 and the central issue in this discussion has been that exemption in case of an own collective agreement will no longer be given automatically by the Government. The Government further indicates that a decision upon an exemption request is open to objection and therefore there must be a clear set of procedural rules for putting forward a request and the decision-making process. After the discussion with the Labour Foundation has come to an end (June or July 2006), the Government will assess whether adaptation of rules will or will not be necessary. *The Committee requests the Government to*

communicate its assessment and intentions in this respect and hopes that the future solution will do away with any risk of anti-union interference.

3. *Protection against anti-union discrimination.* In its previous comments the Committee had requested the Government to provide information on the protection afforded to workers against any act of anti-union discrimination other than dismissal. The Committee noted that the Government referred to its previous report, in which it had provided information on the general constitutional and legislative provisions in force as well as case law in this respect; it also referred to collective agreement clauses providing protection to trade union representatives so that they are not placed at a disadvantage because of their activities. The Committee notes the FNV's observations that the Dutch Constitution does not have legal effect in respect of the private relationship. The Committee notes that the Government reiterates the information in its last report. ***The Committee invites the Government to initiate discussions with the most representative employers' and workers' organizations with a view to identifying appropriate means for addressing the issue of the protection against acts of anti-union discrimination other than dismissal (for instance, transfer, relocation, demotion and deprivation or restriction of remuneration, social benefits, or vocational training) to trade union members who are not trade union representatives.***

Aruba

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

The Committee notes the Government's report.

Article 3 of the Convention. In its previous comments, the Committee had asked the Government to amend or repeal section 374(a) to (c) of the Penal Code and section 82 of Ordinance No. 159 of 1964, which prohibited the right to strike by public employees under threat of imprisonment.

The Committee notes that in the Government's opinion, the abovementioned provisions are in conformity with the Convention, as they do not prohibit public employees from striking. According to the Government, section 374(a) of the Penal Code refers to imprisonment or fine of a public official in the case when he or she, while performing his or her duties, acts with the aim to cause stagnation or to permit the continuation of stagnation, neglects or refuses to perform labour corresponding to his or her inherent duties as a public official. The Government further indicates that section 82(2) of Ordinance No. 159, which states that punishment may be exacted on public employees who neglect or refuse to perform labour as any good public official is expected to perform is aimed at an individual's refusal to perform his or her duties, and not at collective or individual strikes. The Government further informs the Committee that the Penal Code will not be affected by a revision of the labour legislation as the Penal Code falls under the competency of the Ministry of Justice. However, the Code is currently under evaluation by a special committee established in March 2003. It is estimated that its work will be completed in approximately two years. After the evaluation period, the work on the suggested amendments will commence.

The Committee recalls that, in its 1992 report, the Government acknowledged that strikes by public employees, including teachers in the public sector, were forbidden by law (section 347(a) to (c) of the Penal Code and section 82 of Ordinance No. 159 of 1964), although in practice, public employees had resorted to strikes on several occasions and that the local courts had considered such strikes to be legal on condition that they were justified. The Committee recalls that the principle whereby the right to strike may be limited or prohibited in the public service or in essential services would become meaningless if legislation defined the public services or essential services too broadly. The Committee considers that the prohibition should be limited 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. ***Noting that the Penal Code is currently under evaluation, the Committee hopes that the Code, as well as section 82 of Ordinance No. 159, will be reviewed in accordance with the Committee's comments and asks the Government to keep it informed of any progress in this respect. The Committee reminds the Government that it may avail itself of the technical assistance of the Office if it so wishes.***

Workers' Representatives Convention, 1971 (No. 135)

The Committee notes the Government's report.

1. The Committee had noted in its previous comments the declaration of the Government, according to which it will make efforts to seek the advice of the Labour Department for the formalization of some facilities concerning the access of the trade union leaders to the workplace of the employer and the distribution of union materials in the private sector. ***The Committee requests the Government to indicate the measures taken concerning this matter.***

2. The Committee had also noted in its previous comments that the Department of Labour was undertaking a complete revision of existing labour legislation and had requested the Government to provide information on this legislation review and had hoped that it would have taken into account the provisions of the Convention. The Committee notes the declaration of the Government, according to which the labour legislation is still under way, that an interim report on the work of a special committee has been completed and that, after the final approval of the content by its members, it will be published. ***The Committee requests the Government to communicate the abovementioned report and expresses***

the hope that the future legislation will be in accordance with the provisions of the Convention concerning the protection of workers' representatives and the facilities to be afforded to them to enable them to carry out their functions properly and efficiently.

Nicaragua

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1967)

The Committee takes note of the Government's report.

It also notes the comments of 31 August 2005 and 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) referring largely to matters already raised by the Committee. The ICFTU also reports impediments to the registration of the executive board of a trade union, the prosecution of seven trade union leaders and a strike in the education sector that was declared unlawful. *The Committee requests the Government to send its observations on these matters.*

In its previous observation, the Committee noted that under section 9 of the new Civil Service and Administrative Careers Act, No. 476, workers in state-owned public enterprises, universities and higher technical education institutions are excluded from the scope of the Act, and asked the Government to provide information on the legislative provisions governing the exercise of the rights set forth in the Convention for these workers. The Committee notes in this connection that, according to the Government, the trade union rights of workers in public enterprises, universities and higher technical education institutions are established in the Labour Code and in collective agreements.

In previous observations, the Committee has asked the Government to amend sections 389 and 390 of the Labour Code which allow compulsory arbitration of the dispute where 30 days have elapsed since the calling of the strike. The Committee notes that, according to the Government, there has been no amendment of these provisions and that since the Labour Code came into force, no arbitration courts have been convened to rule on any collective disputes. The Committee once again points out that if a dispute is referred to compulsory arbitration after 30 days, the arbitration award should be binding only if all the parties agree to it, or where the strike has been called in an essential service in the strict sense of the term or during an acute national crisis. *The Committee requests the Government to provide information in its next report on the measures taken or envisaged to amend these provisions as outlined above.*

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1967)

The Committee notes the Government's report.

The Committee also notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 31 August 2005 and 10 August 2006, which refer mainly to issues already highlighted by the Committee. Moreover, the ICFTU cites a number of anti-union dismissals in various companies, including in export processing zones. *The Committee asks the Government to send its comments in this respect.*

Article 2 of the Convention. The Committee recalls that in its previous observation, it noted that the fines envisaged in the legislation (from 2,000 to 10,000 cordobas, with 2,000 cordobas being approximately equivalent to US\$147) cannot be considered as dissuasive nor as adequate protection against acts of interference and emphasized the need for the legislation to provide for sanctions that are sufficiently effective and dissuasive against acts of interference by employers or their organizations in trade union affairs. The Committee notes that the Government recognizes that the legislation does not provide for sanctions that are sufficiently dissuasive against acts of interference, that the Government is responsible for preventing any act of anti-union discrimination and that, in the absence of special legislation, supplementary sources of labour law are applied which establish that those cases not provided for in the Code or by the supplementary provisions will be resolved in accordance with the general principles of labour law, case law, comparative law, scientific doctrine, international agreements ratified by Nicaragua, custom and ordinary law. *The Committee reiterates once again the need for the legislation to provide for sanctions that are sufficiently effective and dissuasive against acts of interference by employers or their organizations in trade union affairs and asks the Government to inform it of any measures adopted in this respect in its next report.*

Article 4. The Committee recalls that in its previous observation it took due note of the statistics provided by the Government on the number of collective agreements concluded (and workers covered by them) in both the public and the private sectors and requested the Government to take measures to encourage the negotiation of collective agreements in export processing zones and to provide information in its subsequent report on any measures adopted in this respect. In this regard, the Committee notes the Government's indication that no new collective agreements have been concluded in the export processing zone sector, but that companies in which a collective agreement has been concluded are subject to section 241 of the Labour Code, which establishes that if the period set forth in the collective agreement expires without a request being made for its revision, it will be extended for another period of the same length as that of its validity. *The Committee asks the Government, once again, to take measures to encourage the negotiation of collective agreements in export processing zones and to keep it informed of any developments in this respect.*

Lastly, with regard to the comments of the Confederation of Trade Union Unification (CUS) of 9 September 2004 on the application of the Convention, the Committee notes that they refer to Decree No. 93-2004 which introduces reforms to the Occupational Associations Regulations. The Committee considers that the issues raised do not involve violations of the provisions of the Convention, except in respect of the lack of protection against acts of anti-union interference, as referred to in the paragraph above.

Niger

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

The Committee notes the Government's report.

Articles 3 and 10 of the Convention. Provisions on requisitioning. For a number of years, the Committee has requested the Government to amend section 9 of Ordinance No. 96-009 of 21 March 1996 so as to restrict its scope only to cases in which work stoppages are likely to provoke an acute national crisis, to public servants exercising authority in the name of the State, or to essential services in the strict sense of the term, and to provide a copy of the applicable official text. In its previous observation, the Committee noted that the revision of the abovementioned Ordinance was before the National Tripartite Committee. In this regard, the Committee notes that, according to the Government, the revision of the Ordinance has been hindered by the lack of agreement between the social partners and the Government and by problems relating to the representativeness of trade union organizations. ***The Committee urges the Government to take all the measures within its power to amend section 9 of Ordinance No. 96-009 (a copy of which is requested) and to keep it informed of any developments in this regard.***

Comments of the International Confederation of Free Trade Unions (ICFTU). Finally, with regard to the comments of the ICFTU of September 2003, referring to the requisitioning measures and threats of dismissal against teachers during a lawful strike, the Committee notes the Government's indication that the dispute with teachers concerning this matter has been resolved and that it has taken due note of the Committee's invitation to refrain from taking such measures in the future.

Nigeria

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the Government's report. It also notes the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 2432.

The Committee further notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, addressing several legislative issues and numerous violations of trade union rights in practice. In particular, the ICFTU alleges that the criminal trial of six trade union leaders arrested in September 2004 was still not completed, and refers to numerous instances of intervention in trade union activities, including arrests and acts of violence, by the police and the state security services. ***The Committee requests the Government to communicate its observations on these comments in its next report.***

The Committee notes the Trade Union (Amendment) Act, 2005, and draws the attention of the Government to the following points.

Article 2 of the Convention. (a) Legislatively imposed trade union monopoly. 1. In its previous comments, the Committee had raised its concern over legislatively imposed trade union monopoly. In this respect, it requested the Government to amend section 3(2) of the Trade Union Act, which restricted the possibility of other trade unions from being registered where a trade union already existed. In its report, the Government indicates that section 3(2) has been amended by the Trade Union (Amendment) Act. Noting that there is no such amendment in the language of the Act, the Committee reiterates that under *Article 2* of the Convention workers have the right to establish and to join organizations of their own choosing without distinction whatsoever (see 1994 General Survey on freedom of association and collective bargaining, paragraph 45). ***It therefore requests the Government to amend section 3(2) of the principal Act so as to ensure that workers have the right to form and join organizations of their own choosing even if another organization already exists.***

2. The Committee notes with satisfaction that under the Trade Union (Amendment) Act, section 33 of the principal Act, which previously required all registered trade unions to be affiliated to the central labour organization named in the same section, was repealed.

In its previous observation, the Committee requested the Government to provide information on the impact of the deletion of section 33 of the Trade Union Act, which provided that the Nigeria Labour Congress (NLC) shall be registered as the only central labour organization in Nigeria, on the existence and functioning of the NLC. The Committee notes the Government's indication that the NLC is still in existence.

(b) *Organizing in export processing zones.* The Committee notes the Government's statement that the Federal Ministry of Labour and Productivity is still in discussion with the EPZ authority on the issues of unionization and entry for inspection in the export processing zones. ***The Committee therefore once again requests the Government to take the necessary measures in the near future to ensure that EPZ workers are guaranteed the right to form and join organizations of their own choosing, as provided by the Convention, and to transmit a copy of any new laws adopted in this respect. It further requests the Government to indicate the measures taken or envisaged to ensure that representatives of workers' organizations have reasonable access to EPZs in order to appraise the workers in the zones of the potential advantages of unionization.***

(c) *Organizing in various government departments and services.* In its previous comments, the Committee requested the Government to amend section 11 of the Trade Unions Act, which denied the right to organize to employees in the Customs and Excise Department, the Immigration Department, the prison services, the Nigerian Security Printing and Minting Company, the Central Bank of Nigeria, and Nigerian telecommunications. The Committee notes that this section was not amended by the Trade Union (Amendment) Act and that according to the Government's statement, the Collective Labour Relations Bill, pending before the lower chamber of Parliament will address this issue. The Committee recalls that workers, without distinction whatsoever, shall have the right to establish and to join organizations of their choosing and that the only exceptions authorized by Convention No. 87 are members of the police and armed forces, who should be defined in a restrictive manner and should not include, for example, civilian workers in the manufacturing establishments of the armed forces. Furthermore, the functions exercised by employees of customs and excise, immigration, prisons and preventive services should not justify their exclusion from the right to organize on the basis of Article 9 of Convention No. 87 (see General Survey, op. cit., paragraphs 55 and 56). ***The Committee therefore requests the Government to take the necessary measures to amend section 11 of the Trade Union Act, which is still in force, and keep it informed of the progress made towards the adoption of the Collective Labour Relations Bill and send a copy of the legislation, once it is adopted.***

(d) *Minimum membership requirement.* The Committee had previously expressed its concern over section 3(1) of the Trade Unions Act requiring 50 workers to form a trade union. The Committee notes the Government's statement that the national practice has shown that a 50-membership threshold does not hinder the establishment of a trade union. The Committee considers that even though this minimum membership would be permissible for industry trade unions, it could have the effect of hindering the establishment of enterprise organizations, particularly in small enterprises. ***In these circumstances, the Committee is therefore bound to reiterate that this number is too high and requests the Government to take the necessary measures to reduce the minimum membership requirement, particularly in respect of enterprise trade unions, and thus ensure the right of workers to form organizations of their own choosing.***

Article 3. *The right of organizations to organize their administration and activities and to formulate programmes without interference from the public authorities.* (a) *Export processing zones.* The Committee recalls that it had previously requested the Government to indicate the measures taken or envisaged to ensure that workers in EPZs have the right to freely organize their administration and activities and to formulate their programmes without interference by the public authorities, including through the exercise of industrial action. ***Noting the Government's indication that the EPZ authority is not opposed to trade union activities and that the Federal Ministry of Labour and Productivity is still in discussion on this issue, the Committee reiterates its previous request and expects that the necessary measures will be taken without delay so as to ensure that workers in EPZs enjoy the rights under the Convention.***

(b) *Conditional check-off facilities.* The Committee had previously expressed its concern over section 16 of the Trade Unions Act, which conditioned check-off facilities on the inclusion of "no-strike" clauses. The Committee notes with satisfaction that new section 16A does not subject check-off facilities for workers to any such conditionality.

(c) *Administration of organizations.* The Committee recalls that, in its previous comments, it had requested the Government to amend sections 39 and 40 of the Trade Unions Act in order to limit the broad powers of the registrar to supervise the union accounts at any time and to ensure that such a power was limited to the obligation of submitting periodic financial reports, or in order to investigate a complaint. The Committee notes that these sections were not amended under the new legislation and that the Government refers to the Collective Labour Relations Bill. ***The Committee trusts that the new legislation to which the Government refers will address this matter.***

(d) *Right to strike.* 1. *Compulsory arbitration.* The Committee notes that section 30, as amended by section (6)(d) of the Trade Unions (Amendment) Act, continues to rely on the Trade Disputes Act to restrict strike action through the imposition of a compulsory arbitration procedure leading to a final award. The Committee has already pointed out on several occasions that such a restriction, which is binding on the parties concerned, constitutes a prohibition which seriously limits the means available to trade unions to further and defend the interest of their members, as well as their right to organize their activities and to formulate their programmes. ***The Committee therefore once again requests the Government to take the necessary measures to amend section 7 of Decree No. 7 of 1976 amending the Trade Disputes Act in order to limit the possibility of imposing compulsory arbitration to only essential services in the strict sense of the term, public servants exercising authority in the name of the State or in the case of acute national crisis.***

2. *Strike quorum.* The Committee notes that section 6 of the Trade Union (Amendment) Act amends section 30 of the principal Act by inserting subsection (6)(e), which requires the observance of a quorum of a simple majority of all registered trade union members for the calling of a strike. The Committee considers that if a member State deems it

appropriate to establish in its legislation provisions, which require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast (see General Survey, op. cit., paragraph 170). ***It therefore requests the Government to take the necessary measures to amend new section 30(6)(e) accordingly, so as to bring it into conformity with the Convention.***

3. *Restrictions relating to essential services.* The Committee notes with concern that section 6 of the new Act relies on the definition of “essential services” provided for in the Trade Disputes Act (1990) to restrict participation in a strike. Specifically, the Trade Disputes Act defines “essential service” overly broad so as to include, amongst others, service for or in connection with: the Central Bank of Nigeria, the Nigerian Security Printing and Minting Company Limited, any corporate body licensed to carry on banking business under the Banking Act, the postal service, sound broadcasting, maintaining ports, harbours, docks or aerodromes, transportation of persons, goods or livestock by road, rail, sea or river, road-cleansing, and the disposal of night soil and rubbish. The Committee recalls that essential services are only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see General Survey, op. cit., paragraph 159). ***It once again requests the Government to take the necessary measures to amend the Trade Disputes Act’s definition of “essential services”.*** The Committee reminds the Government that in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to the third parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum service in other services which are of public utility rather than impose an outright ban on strikes, which should be limited to essential services in the strict sense of the term (see General Survey, op. cit., paragraph 160).

4. *Restrictions relating to the objectives of a strike.* The Committee notes with concern section 30 of the Trade Unions Act as amended by section 6(d) of the new Act, limiting legal strikes to disputes constituting a dispute of right, defined as “a labour dispute arising from the negotiation, application, interpretation or implementation of a contract of employment or collective agreement under the Act or any other enactment of law governing matters relating to terms and conditions of employment”, as well as to a dispute arising from a collective and fundamental breach of employment or collective agreement on the part of the employee, trade union or employer. It appears to the Committee that the legislation would exclude any possibility of a legitimate strike action to protest against the Government’s social and economic policy affecting workers’ interests. The Committee recalls that organizations responsible for defending workers’ socio-economic and occupational interests should, in principle, be able to use strike action not only to support their position regarding particular employment, but also in the search for solutions posed by major social and economic policy trends which have a direct impact on their members and on workers in general, social protection, and the standard of living (see General Survey, op. cit., paragraph 165). ***Therefore, it requests the Government to amend section 6 of the new Act so as to ensure that workers enjoy the full right to strike and, in particular, to ensure that workers’ organizations may have recourse to protest strikes aimed at criticizing the Government’s economic and social policies without sanctions.***

5. *Other restrictions.* The Committee notes that section 42(1)(B) of the Trade Unions Act, as amended, requires that “no trade union or registered federation of trade unions or any member thereof shall in the course of any action compel any person who is not a member of its union to join and strike or in any manner whatsoever, prevent aircrafts from flying or obstruct public highways, institutions or premises of any kind for the purpose of giving effect to the strike”. This section appears to provide for two prohibitions: firstly, with regard to compelling non-union members to participate in a strike action and, secondly, the prohibition to obstruct public highways, institutions or premises of any kind for the purpose of giving effect to the strike. The Committee recalls that taking part in picketing and firmly but peacefully inciting other workers to keep away from their workplace should not be considered unlawful. The case is different, however, when picketing is accompanied by violence or coercion of non-strikers. As to the second prohibition, the broad wording of this section could potentially outlaw any gathering or strike picket. The Committee recalls that the conditions that have to be fulfilled under the law in order to render a strike lawful should be reasonable and, in any event, not such as to place substantial limitation on the means of action open to trade union organizations. In addition, given that aircraft-related services, with the exception of air traffic controllers, are not in themselves considered to be essential services, a strike of workers in that sector or related services should not be the subject of an overall ban, as could be implied from the wording of this section. ***The Committee therefore requests the Government to take the necessary measures to amend section 42(1)(B) so as to bring it into conformity with the Convention and the above principles and so as to ensure that any restrictions placed on strike actions aimed at guaranteeing the maintenance of public order are not such as to render any such action relatively impossible or ban it for certain workers beyond those in essential services.***

6. *Sanctions against strikes.* The Committee notes that section 30 of the Trade Unions Act, as amended by section 6(d) of the new Act, makes strikers liable to the possibility of both paying a fine and being imprisoned up to six months, which might lead to a disproportionate penalty to the seriousness of the violation. ***The Committee therefore requests the Government to ensure that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principle of freedom of association.*** The Committee considers that the application of disproportionate penal sanctions does not favour the development of harmonious and stable industrial relations, if measures of imprisonment are to be imposed at all they should be justified by the seriousness of the offences committed (see General Survey, op. cit., paragraph 177). ***The Committee therefore requests the Government to ensure that***

sanctions against strikers are proportionate to the offence committed and that no measures of imprisonment could be imposed unless criminal or violent acts have been committed.

Article 4. Dissolution by administrative authority. In its previous comments, the Committee had requested the Government to amend section 7(9) of the Trade Unions Act by repealing the broad authority of the minister to cancel the registration of workers' and employers' organizations, as the possibility of administrative dissolution under the provision involved a serious risk of interference by the public authority in the very existence of organizations. The Committee notes the Government's statement that this matter will be addressed in the Collective Labour Relations Bill. ***Noting that section 7(9) of the principal Act is still in force, the Committee requests the Government to take the necessary measures to amend it and to provide a copy of the new legislative Act once it is adopted.***

Articles 5 and 6. The right of organizations to establish federations and confederations and to affiliate with international organizations and the application of the provisions of Articles 2, 3 and 4 to federations and confederations of employers' and workers' organizations. The Committee notes that section 8(a)(1)(b) and (g) of the new Act requires federations to consist of 12 or more trade unions in order to be registered. ***In this respect, the Committee requests the Government to provide information on the practical application of this requirement and, in particular, the level at which federations are established.***

The Committee expresses the firm hope that appropriate measures will be taken in the very near future to make necessary amendments to the laws referred to above in order to bring them into full conformity with the Convention. It requests the Government to keep it informed of the measures taken or envisaged in this respect.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1960)

The Committee notes the Government's report.

1. *Trade Union (Amendment) Act.* In its previous observations, the Committee had commented upon on a section of Decree No. 1 of 1999 which conditioned the provision of check-off facilities upon the insertion of "no strike" and "no lock-out" clauses in relevant collective bargaining agreements. The Committee notes with satisfaction that this provision has been abrogated by the Trade Union (Amendment) Act of 2005. The Committee notes with interest that this new legislation provides that a "membership of a trade union by employees shall be voluntary and no employee shall be forced to join any trade union or be victimized for refusing to join or remain a member".

2. *Bill on collective labour relations.* The Committee notes the Government's statement according to which the National Assembly has not yet passed the bill on collective labour relations. ***The Committee recalls that the ILO technical assistance has been provided to the authorities and hopes that the future legislation will be in full conformity with the requirements of the Convention. The Committee requests the Government to send the new law once adopted.***

3. *Comments made by the Organization of African Trade Union Unity (OATUU) and the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention.* The Committee notes the comments made by the OATUU in a communication dated 20 August 2004 as well as the ICFTU in communications dated 31 August 2005 and 10 August 2006. The comments concern in particular the fact that: (1) certain categories of worker are denied the right to organize (such as employees of the Customs and Excise Department, the Immigration Department, the Nigerian Security Printing and Mining Company, the Prison Service and the Central Bank of Nigeria) and therefore are deprived of the right to collective bargaining; (2) only unskilled workers are protected by the Labour Act against anti-union discrimination by their employer; (3) every agreement on wages must be registered with the Ministry of Labour, which decides whether the agreement becomes binding according to the Wages Board and Industrial Council Acts according to the Trade Dispute Act (it is an offence for an employer to grant a general or percentage increase in wages without the approval of the Minister); (4) article 4(e) of the 1992 Decree on Export Processing Zones states that "employer-employee" disputes are not matters to be handled by trade unions but rather by the authorities managing these zones; and (5) article 3(1) of the same Decree makes it very difficult for workers to form or join trade unions as it is almost impossible for worker representatives to gain free access to the export processing zones (EPZs). ***The Committee requests the Government to send its reply on these comments.***

Concerning the abovementioned point (1), the Committee observes that the Committee on Freedom of Association has underlined that the functions exercised by employees of customs and excise, immigration, prisons, and preventive services should not justify their exclusion from the right to organize on the basis of Article 9 of Convention No. 87 (see 343rd Report of the Committee on Freedom of Association, paragraph 1027). ***The Committee requests the Government to amend section 11 of the Trade Union Act (1973) so that these categories of workers are granted the right to organize and to bargain collectively, as well as for all public employees not engaged in the administration of the State.***

Norway

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1949)

The Committee takes note of the Government report.

Articles 3 and 10 of the Convention. In its previous comments, the Committee requested the Government to keep it informed of the measures taken or envisaged to ensure that compulsory arbitration will be limited to essential services or to public servants exercising authority in the name of the State and to continue to furnish information on any use by Parliament of its power to impose compulsory arbitration. The Committee takes note of the Government's observations that governmental intervention in strikes can only take place if the Norwegian Parliament (Stortinget) adopts a law and that, during the reporting period, four separate acts imposing compulsory arbitration had been adopted because life and health or public interest could be endangered.

The Committee considers that the possibility of referring any collective labour disputes to compulsory arbitration at the discretion of the public authorities seriously limits the means available to trade unions to further and defend the interests of their members, as well as their right to organize their activities and formulate their programmes, and is therefore not compatible with *Article 3* of the Convention. The Committee recalls that, in its previous comments, it had drawn attention to the need to limit the possibility of imposing legislative intervention in respect to industrial action and the use of compulsory arbitration to essential services in the strict sense of the term, that is, those the interruption of which would endanger the life, personal safety or health of the whole or part of the population or to public servants exercising authority in the name of the State. The Committee notes that the use of this authority during the reporting period appears to have been in respect of conflicts in the oil sector, the elevator services, and the health sector (air ambulance services). The Committee has recognized the health sector as an essential service. On the other hand, the Committee considers the elevator service and the oil sector as non-essential services in the strict sense of the term, but acknowledges that, at least as regards the oil sector, it can become essential if a strike affecting it exceeds a certain duration or extent.

According to the Committee, in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum service in other services which are of public utility rather than impose an outright ban on strikes, which should be limited to essential services in the strict sense of the term (1994 General Survey on freedom of association and collective bargaining, paragraph 160).

The Committee recalls that over the years, it has referred to the need to limit the possibility of imposing legislative intervention in respect of industrial action and the use of compulsory arbitration to the essential services in the strict sense of the term or to public servants exercising authority in the name of the State and requests the Government to keep it informed in future reports of the measures taken or envisaged in this respect.

Pakistan

Right of Association (Agriculture) Convention, 1921 (No. 11) (ratification: 1923)

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 underlined that the present Convention applies to all those engaged in agriculture. While agriculture is not expressly excluded from the Industrial Relations Ordinance (IRO) 1969, it is not expressly included and the definitions given in the Ordinance can be interpreted as excluding small agricultural workers like self-employed farmers, sharecroppers, tenants and smallholders, from its application. In fact "employer" is defined in relation to an establishment which means "any office, firm, industrial unit, undertaking, shop or premises in which workmen are employed for the purpose of carrying on an industry, i.e. any business, trade, manufacture, calling, service, employment or occupation" (section 2). This restrictive definition does not include small agricultural holdings which do not run an establishment or farmers working on their own or with their family.

In the light of the foregoing situation, the Committee considers that there is an important gap in the legislation and the Government should take appropriate measures to modify existing statutory laws or enact new laws in relation to workers engaged in agriculture and their right to establish organizations, like industrial workers, in order to comply with its obligation to respect and fully apply this Convention.

The Committee once again requests the Government to provide in its next report detailed information concerning the number of trade unions and associations of agricultural workers. It also requests information on legislative and other measures taken or contemplated to ensure specifically that those engaged in agriculture enjoy the same rights of association and combination as industrial workers, and to repeal any statutory or other provisions restricting such rights.

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

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1951)

The Committee notes the Government's report.

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, referring to issues already raised, and alleging massive arrests and measures of retaliation against strikers, denial of registration of a union, limitation to the right of demonstration, harassment of women trade union leaders, suspension of trade union and the possible use of section 144 of the Code of Criminal Proceedings against a trade union gathering. The Committee recalls that the right of workers' and employers' organizations can only be exercised in a

climate that is free from violence, pressure or threats of any kind against leaders and members of these organizations and it is for the governments to ensure that this principle is respected. ***The Committee requests that the Government provide its observations on all these comments as well as on the comments of the All Pakistan Federation of Trade Unions (APFTU) and the ICFTU dated 14 May and 31 August 2005, respectively, mentioned in its 2005 observation.***

The Committee recalls that in its previous comments, it addressed the following matters.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee had previously requested the Government to amend its legislation or to adopt specific legislation so as to ensure that the following employees enjoyed the right to form and join organizations to defend their own social and occupational interests:

- managerial and supervisory staff (sections 2(xxx) and 63(2) of the Industrial Relations Ordinance (IRO));
- workers excluded by virtue of section 1(4) of the IRO, namely workers employed in the following establishments or industries: installations or services exclusively connected with the armed forces of Pakistan including the Ministry of Defence lines of the railways; Pakistan Security Printing Corporation or the Security Papers Limited or Pakistan Mint; administration of the State other than those employed as workmen by the railways, post, telegraph and telephone departments; establishments or institutions maintained for the treatment or care of sick, infirm, destitute and mentally unfit persons excluding those run on a commercial basis; institution established for payment of employees' old-age pensions or for workers' welfare; and members of the watch and ward, security or fire service staff of an oil refinery or of an establishment engaged in the production, transmission or distribution of natural gas or liquefied petroleum products or of a seaport or an airport;
- workers of charitable organizations (section 2(xvii) of the IRO, 2002);
- workers at the Karachi Electric Supply Company (KESC);
- workers in the Pakistan International Airlines (PIA) (Chief Executive's Order No. 6);
- agricultural workers; and
- export processing zones workers.

The Committee once again emphasizes that all workers, with only the possible exception of the police and armed forces, should enjoy the right to establish and join trade unions. ***Noting the Government's indication that the draft amendment of the IRO has been submitted to the Cabinet for approval before being sent to Parliament, the Committee requests that the Government indicate in its next report the progress made in amending the IRO of 2002, and to provide a copy of the draft amendment thereof so that it could examine their conformity with the Convention. It further asks the Government to take without delay the necessary measures to restore full trade union rights to the KESC and the PIA workers and to keep it informed in this respect. The Committee also requests that the Government indicate in its next report the progress made in framing labour legislation to ensure the rights under the Convention to workers in the agricultural sector and EPZs and to transmit a copy of any relevant draft texts or adopted legislation.***

Article 3. (a) Right to elect representatives freely. In its previous comments, the Committee requested the Government to amend section 27-B of the Banking Companies Ordinance of 1962, which restricted the possibility of becoming an officer of a bank union only to employees of the bank in question, under penalty of up to three years' imprisonment, either by exempting from the occupational requirement a reasonable proportion of the officers of an organization, or by admitting, as candidates, persons who have been previously employed in the banking company. The Committee notes the Government's indication that measures to review and ultimately reform section 27-B of the Banking Companies Ordinance of 1962 were under way. ***While noting that the measures taken to review and ultimately reform section 27-B of the Banking Companies Ordinance of 1962 are under way, the Committee expresses the firm hope that the Government will repeal these restrictions in the near future and requests the Government to keep it informed in this respect.***

(b) Right to strike. In its previous observation, the Committee had noted that the federal or provincial Government could prohibit a strike related to an industrial dispute in respect of any public utility services, at any time before or after its commencement, and refer the dispute to a board of arbitrators for compulsory arbitration (section 32 of the IRO). A strike carried out in contravention of an order made under this section was deemed illegal by virtue of section 38(1)(c). The Committee noted that Schedule I setting out the list of public utility services included services which could not be considered essential in the strict sense of the term – oil production, postal services, railways, airways and ports. The schedule also mentioned watch and ward staff and security services maintained in any establishment. Furthermore, for a number of years, the Committee had been requesting the Government to amend the Essential Services Act, which included services beyond those which can be considered essential in the strict sense of the term.

Considering that essential services are only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, the Committee once again requests the Government to amend the legislation so as to ensure that workers employed in oil production, postal services, railways, airways and ports may have recourse to strike action and so that compulsory arbitration may only be applied in these cases at the request of both parties. The Committee recalls that, rather than imposing a prohibition on strikes, in order to avoid damages which are irreversible or out of proportion to the occupational interests of the parties to the dispute, as well as damages to third

parties, the authorities could establish a system of negotiated minimum service of public utilities. *Considering the heavy penal sanctions linked to violation of the Essential Services Act, the Committee further asks the Government to amend this Act so as to ensure that its scope is limited to essential services in the strict sense of the term. The Committee also requests that the Government specify the categories of workers employed in the “watch and ward staff and security services maintained in any establishment”.*

The Committee had noted that section 31(2) of the IRO authorized “the party raising a dispute”, either before or after the commencement of a strike, to apply to the Labour Court for adjudication of the dispute. During this time, the Labour Court (or Appellate Court) could prohibit the continuation of the existing strike action (section 37(1)). The Committee once again recalls that a provision, which permits either party unilaterally to request the intervention of the public authorities for the settlement of a dispute through compulsory arbitration leading to a final award, effectively undermines the right to strike by making it possible to prohibit virtually all strikes or to end them quickly. Such system seriously limits the means available to trade unions to further and defend the interests of their members as well as their right to organize their activities and to formulate their programmes and is not compatible with *Article 3* of the Convention (see 1994 General Survey on freedom of association and collective bargaining, paragraph 153). *The Committee therefore requests that the Government indicate the measures taken to amend section 31(2) so as to bring it into conformity with the Convention.*

The Committee had further noted that, according to section 31(3) of the IRO, where a strike lasts for more than 15 days, the federal or provincial Government can prohibit the strike at any time before the expiry of 30 days, “if it was satisfied that the continuance of such strike was causing serious hardship to the community or was prejudicial to the national interests” and should prohibit the strike if it considered that it “was detrimental to the interests of the community at large”. The Committee had further noted that, under section 31(4), following prohibition of the strike, the dispute is referred to the commission or to the labour court for compulsory arbitration. *Recalling that prohibitions or restrictions of the right to strike should be limited to essential services in the strict sense of the term, or to situations of an acute national crisis, and considering that the wording in section 31 is too broad and vague to be limited to such cases, the Committee asks the Government to amend its legislation so as to bring it into conformity with the Convention. It requests that the Government keep it informed of measures taken or envisaged in this respect.*

The Committee had also noted that section 39(7) provided for the following sanctions for contravening a labour court’s order to call off a strike: dismissal of the striking workers; cancellation of the registration of a trade union; debarring of trade union officers from holding office in that or any other trade union for the unexpired term of their offices and for the term immediately following. The Committee once again recalls in this respect that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association. Even in such cases, existence of heavy and disproportionate sanctions for strike action may create more problems than they resolve. Since the application of disproportionate sanctions does not favour the development of harmonious and stable industrial relations, the sanctions should not be disproportionate to the seriousness of the violation (see General Survey, op. cit., paragraphs 177 and 178). More specifically, the Committee considers that the cancellation of trade union registration, in view of the serious and far-reaching consequences which dissolution of a union involves for the representation of workers’ interests, would be disproportionate even if the prohibitions in question were in conformity with the principles of freedom of association. *Consequently, the Committee urges the Government to take the necessary measures to amend section 39(7) of the IRO so as to ensure that sanctions for strike action may only be imposed where the prohibition of the strike is in conformity with the Convention and that, even in those cases, the sanctions imposed are not disproportionate to the seriousness of the violation.*

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

The Committee addresses a direct request on other points directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee notes the Government’s report. The Committee regrets that the report does not cover all the pending points, despite the fact that the Conference Committee on the Application of Standards, after noting the long-standing nature and the seriousness of the discrepancies between the Convention and national law, had requested the Government, in June 2006, to send a detailed report containing full information on all issues raised, as well as draft texts concerning the application of the Convention.

The Committee notes the discussion in the Conference Committee, in which two Government representatives of Pakistan acknowledged that Pakistan went through a difficult period of economic fragility which had an adverse impact on unemployment and working conditions but, that the economy had now been stabilized through various policies including steps to reform the legislation, following the Committee’s 2005 observation; the Government is making a strong commitment to put in place a good industrial relations system and that steps taken in that direction were being reinforced; bodies for tripartite consultation have been established; and a special committee on labour matters has been set up. The Committee also notes that the Government is working towards resolving outstanding problems in the near future, while at

the same time ensuring that measures taken would bring about lasting changes and is looking forward to further cooperation with workers' and employers' organizations, as well as the ILO.

The Committee recalls that the pending questions, detailed in its previous observations, refer to:

1. *Scope of application of the Convention.* (a) *Denial of the rights guaranteed by the Convention in export processing zones (EPZs).* The Committee noted the Government's statement that the relevant ministry and the EPZ authority were devising rules for workers in the EPZs to be in conformity with the Convention. The Committee notes the Government's indication that Export Processing Zone Employment Relations Rules had been prepared in response to the concerns raised regarding the denial of labour rights in this sector. These draft rules have been sent to the Ministry of Law, Justice and Human Rights for review and will be provided to the Committee once the process is completed. ***Hoping that, in the very near future, the new rules will provide the EPZ workers with all the rights and guarantees enshrined in the Convention, the Committee requests again the Government to send the copy of these rules as soon as adopted.***

(b) *Denial of the rights guaranteed by the Convention to other categories of workers.* (i) The Committee had previously noted that the Industrial Relations Ordinance (IRO) of 2002, excluded from its scope workers employed in the following establishments or industries: installations or services exclusively connected with the armed forces of Pakistan, including the Ministry of Defence Railway Lines; Pakistan Security Printing Corporation, or the Security Papers Limited or Pakistan Mint; establishments or institutions maintained for the treatment or care of sick, infirm, destitute and mentally-unfit persons excluding those run on a commercial basis; institutions established for payment of employees' old-age pensions or for workers' welfare; and members of the watch and ward, security or fire service staff of an oil refinery or of an establishment engaged in the production, transmission or distribution of natural gas or liquefied petroleum products or of a seaport or an airport (section 1(4)) and persons who are employed mainly in a managerial or administrative capacity (section 2(xxx)), as well as workers of charitable organizations (section 2(xvii)). The Committee noted the Government's statement that it has sent the draft amendments of the IRO to the Prime Minister's secretariat for approval before their submission to Parliament. The amendments would remove certain categories of worker from section 1(4) and thus restore freedom of association and collective bargaining rights to certain categories of worker. The Committee notes that, at the Conference Committee, a Government representative stated that the Amendment Bill, which has been drafted following tripartite consultations, has been submitted to the Pakistani Cabinet. ***Hoping that the new amendments will afford the right to organize to the abovementioned categories of workers, the Committee requests the Government to provide a copy of the draft amendments.***

(ii) In respect of restrictions imposed on the rights of workers employed in the Karachi Electric Supply Company (KESC), the Committee noted that, according to the Government, after promulgation of the IRO, the KESC workers were entitled to the right of association. However, following an application filed by the Trade Union of the KESC, the National Industrial Relations Commission (NIRC) issued an order to the effect that the IRO was not applicable to the KESC. The Trade Union of the KESC appealed to the bench of the NIRC and the matter was still pending. The Committee notes that, at the Conference Committee, a Government representative was informed of the lifting of the ban on the KESC trade union activities. However, according to the Government, a dispute regarding registration of the labour union in the KESC was considered by the NIRC, which ordered that a referendum be held to prepare for the determination of a collective bargaining agent. The NIRC was making preparations for the referendum, following which labour unions would be fully restored in the KESC. ***The Committee requests the Government to take all necessary measures to ensure that the KESC workers and the trade union existing in the enterprise enjoy the rights afforded by the Convention in practice and requests the Government to keep it informed of the situation including the decision taken by the NIRC on the registration of a labour union and on the determination of a collective bargaining agent.***

(iii) With respect to Chief Executive's Order No. 6, which abolished trade union rights of the workers in Pakistan International Airlines (PIAC) and suspended all the existing collective agreements, the Committee noted that the Government reiterated that the case of the trade unions affected by the Order was still pending before the Supreme Court of Pakistan. The Committee once again recalls that only the armed forces, the police and public servants engaged in the administration of the State can be excluded from the guarantees of the Convention. ***While taking note that the case is still pending before the court, in view of the fact that Order No. 6 was issued by the Chief Executive and that it is in contradiction with the Convention, the Committee once again requests the Government to take all necessary measures to repeal the Order and to restore full trade union rights to the PIAC workers. It requests the Government to keep it informed in this respect.***

(iv) Regarding the rights afforded by the Convention to workers in the agricultural sector, the Committee notes that, at the Conference Committee, the Government representative underscored that the Ministry of Food and Agriculture and provincial governments had been advised to help streamline the work and activities of rural workers' organizations in keeping with the Governments' obligations under the Convention and that the Constitution of Pakistan provided clear guarantees to form or join "associations" to all Pakistani citizens, including rural workers. In its report, the Government indicates that no trade union of agriculture workers has been registered during the period under review but that there are numerous agriculture workers' associations in place in the country to safeguard their interests. ***The Committee requests the Government to ensure, in a legal text concerning trade unions, that this category of workers enjoys freedom of association and collective bargaining rights in law and in practice, as required by the Convention, and to provide it with the advice given to the Ministry of Food and Agriculture and provincial governments in this regard.***

2. *Article 1 of the Convention. (a) Sanctions for trade union activities.* The Committee noted the Government's statement that, while section 27-B of the Banking Companies Ordinance of 1962 – according to which imprisonment and/or fines are imposed in cases which include the use of bank resources (such as telephones) or of carrying on trade union activities during office hours, pressure tactics, etc. – does not violate rights guaranteed under the Convention, the Ministry of Labour was consulting with the ministries concerned regarding the amendment to section 27-B. The Committee notes that the Government indicates that measures to review and ultimately reform section 27-B of the Banking Companies Ordinance of 1962 were under way. ***While noting that the measures taken to review and ultimately reform section 27-B of the Banking Companies Ordinance of 1962 are under way, the Committee expresses the firm hope that the Government will repeal these restrictions in the near future and requests the Government to keep it informed in this respect.***

(b) *Lack of sufficient legislative protection for workers dismissed for their trade union membership or activities (section 25-A of the IRO of 1969).* The Committee had previously noted the All Pakistan Federation of Trade Unions' (APFTU) statement, according to which the newly imposed section 2-A of the Service Tribunals Act has debarred workers engaged in autonomous bodies and corporations such as the Pakistan Water and Power Development Authority (WAPDA), railway, telecommunication, gas, banks, the Pakistan Agricultural Storage and Supply Corporation (PASSCO), etc., from seeking redress for their grievances from the labour courts, labour appellate tribunals and the NIRC in the case of unfair labour practices committed by the employer. The Committee had noted the Government's statement that the issues related to provision 2-A had been addressed and that a proposal had been made by the Ministry to delete or amend it in order to enable public sector workers to seek remedy under labour legislation. The Committee notes that, at the Conference Committee, the Government representative stated that measures to review and ultimately reform section 2-A of the Services Tribunal Act were under way. The Government also refers to the fact that workers can file a petition of "Unfair Labour Practice" to the Labour Courts under sections 63 and 65 of the Ordinance. ***Noting that measures to review and ultimately reform section 2-A of the Services Tribunal Act are under way, the Committee requests the Government to keep it informed of these measures and ensure that appropriate means of redress are available to these workers.***

3. *Article 2 (protection against acts of interference).* The Committee notes the Government's indication that workers and employers enjoy adequate protection against any act of interference by each other or each other's agents or members in their establishment. This principle has been applied by means of legislation under which the field formation of the Directorate of Labour Welfare and the Minimum Wages Board have been established and the workers are authorized to form a trade union and determine a collective bargaining agent for executing agreements between the employers and the workers. ***The Committee once again requests the Government to state in its next report the specific provisions of the legislation which prohibit and penalize acts of interference by organizations of workers and employers (or their agents) in each others affairs.***

4. *Article 4 (collective bargaining).* ***The Committee once again requests the Government to amend the following sections of the IRO, 2002, and keep it informed of the measures taken or envisaged in this respect:***

- (i) section 20, from which it results that if the trade union is the only trade union at the enterprise and does not have at least one-third of the employees as its members, no collective bargaining is possible at a given establishment. ***The Committee requests the Government to ensure that if there is no union representing the required percentage to be designated as a collective bargaining agent, collective bargaining rights are granted to the existing unions, at least on behalf of their own members;***
- (ii) section 20(11) according to which no application for determination of the collective bargaining agent at the same establishment may be made for a period of three years once a registered trade union has been certified as the collective bargaining agent. ***The Committee requests the Government to ensure the possibility for another union to make appropriate representations to the competent authority and to the employer regarding the recognition of this union for collective bargaining purposes, if the most representative union which enjoys exclusive bargaining rights seems to have lost its majority;***
- (iii) section 54 according to which the NIRC may determine or modify a collective bargaining unit on an application made by a workers' organization or reference made by the federal Government. ***The Committee requests the Government to ensure that the choice of collective bargaining unit may only be made by the partners themselves, since they are in the best position to decide the most appropriate bargaining level.***

The Committee observes that the International Confederation of Free Trade Unions (ICFTU) sent comments on the application of the Convention on 12 July 2006. It observes that, if most of these comments concern issues that have already been raised by the Committee in previous observations, the ICFTU gives new examples of violations of the Convention, including several cases of anti-union dismissals in five enterprises and the massive reprisals and arrest of over 600 workers during a collective action. ***The Committee requests that the Government transmit its observations in this regard.***

The Committee expresses the hope that the initiatives taken by the Government to amend the national legislation will be transposed without delay in real legislative reforms in full conformity with the Convention and, given the Government's statement according to which it is looking forward to further cooperation with the ILO, recalls that the

technical assistance of the ILO is at its disposal. The Committee asks the Government to provide information in its next report on any measures adopted to comply with the requirements of the Convention.

Panama

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1958)

The Committee notes the Government's report, the discussion that took place in the Conference Committee in June 2005, the comments on the application of the Convention submitted by the National Council of Organized Workers (CONATO), the National Council of Private Enterprise (CONEP), as well as the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006 (which mostly refer to the matters previously raised by the Committee). The Committee further notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 1931 brought by the International Organisation of Employers (IOE) (see 318th Report, paragraphs 493-507), and the report of the technical assistance mission conducted in Panama from 6 to 9 February 2006.

1. The Committee takes note of the main conclusions of the technical assistance mission and, in particular, notes that the Government indicated to the mission that, although it wishes to align its legislation with Conventions Nos. 87 and 98, it is not in a position to push for any reform of the Labour Code that does not have the agreement of both the workers' and employers' organizations. Furthermore, it stated that it is aware, however, that a consensus between the workers and the employers is highly improbable, at least in the short term, and states its readiness to embark on a process that would lead gradually to the revision of the offending provisions through measures that would bring the parties closer and eventually secure agreement.

2. The Committee recalls that its previous comments concern the following issues:

- (a) The authority of the Regional or General Labour Directorate to refer labour disputes to compulsory arbitration in order to stop a strike in a public service enterprise, including when the service cannot be considered essential in the strict sense of the term, such as transportation (sections 486 and 452 of the Labour Code).
- (b) Sections 174 and 178, last paragraph, of Act No. 9 ("establishing and regulating administrative careers") of 1994, which lay down respectively that there shall not be more than one association in an institution and that associations may have provincial or regional chapters, but not more than one chapter per province.
- (c) Section 41 of Act No. 44 of 1995 (amending section 344 of the Labour Code) which requires too large a membership (ten) for the establishment of an employers' organization and an even larger membership (40) for the establishment of a workers' organization at enterprise level.
- (d) Article 64 of the Constitution which requires Panamanian nationality in order to serve on the executive board of a trade union.
- (e) The obligation to provide minimum services with 50 per cent of the personnel in establishments which provide essential public services, which go beyond essential services in the strict sense of the term and include transport, and the penalty of summary dismissal of public servants for failure to comply with the requirement concerning minimum services in the event of a strike (sections 185 and 152.14 of Act No. 9 of 1994).
- (f) Legislation interfering in the activities of employers' and workers' organizations (sections 452(2), 493(1) and 497 of the Labour Code) (closure of the enterprise in the event of a strike and compulsory arbitration at the request of one of the parties). The Government gave the mission a copy of Executive Decree No. 32 of 1994 providing for minimum services to safeguard the security of the enterprise and its assets, and maintenance services.
- (g) The requirement of 50 public servants in order to establish an organization of public servants under the Administrative Careers Act. The Government acknowledged that the number is high but pointed out that section 176 of Act No. 9 allows public servants to organize by class (category) or sector of activity, and the Committee asked the Government to take steps to amend the legislation with a view to reducing the minimum number of public servants required to establish organizations.
- (h) Denial of the right to strike of workers engaged at sea and on inland waterways (Act No. 8 of 1998), and in export processing zones (Act No. 25). The Government stated that No. 15 of indent B of section 49-A of Act No. 25 of 1992, grants workers in export processing zones the right to strike; and that with regard to the right to strike of seafarers regulated by Decree No. 8 of 1998, the Supreme Court of Justice is currently hearing a complaint alleging unconstitutionality. The Committee asked the Government to send both texts and a copy of the above Court's decision.
- (i) Federations and confederations prohibited from calling strikes (prohibition of strikes protesting against problems relating to economic and social policy; strikes not related to a collective agreement in an enterprise are unlawful). The Committee pointed out that federations and confederations should have the right to strike and that organizations responsible for defending workers' socio-economic and occupational interests should, as a rule, be able to use strike action to support their positions to seek solutions to problems posed by major social and economic policy trends which have a direct impact on their members and on workers in general, in particular as regards employment, social

protection and the standard of living (see General Survey on freedom of association and collective bargaining, 1994, paragraph 165). The Committee asked the Government to take steps to amend the legislation with a view to bringing it into line with these principles.

- (j) Disaffiliation of FENASEP from the Trade Union Convergence Confederation by decision of the authorities. The Government indicated previously that public servants are governed by the Act respecting administrative careers and considered that they must join homologous organizations of public servants. The Committee pointed out that although basic-level organizations of public servants may be restricted to this category of workers, such organizations should, nonetheless, be free to join federations and confederations of their own choosing, including those which also group together organizations from the private sector (see General Survey, op. cit., paragraph 193). The Committee requested the Government to take measures to amend the legislation with a view to bringing it into line with the abovementioned principle. The Committee requested the Government not to prevent the affiliation of FENASEP with the Trade Union Convergence Confederation.
- (k) Denial to public servants of the right to form unions. The Government indicated previously that CONATO's interpretation was inconsistent with reality; the right of association of public servants is recognized in Act No. 9 of 20 June 1994 and, in practice, FENASEP operates in the same way as any other private sector organization and participates in CONATO and the International Labour Conference. The Committee emphasized in earlier comments that, irrespective of the wording used, the decisive factor is that the associations in question enjoy the rights set out in the Convention. The Committee notes that FENASEP informed the mission that it was negotiating with the Government the text of a Bill to reform the Administrative Careers Act in part.
- (l) Denial of the right to strike to public servants. The Government indicated previously that the Constitution allows special restrictions in cases determined by law. The Committee recalls that prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State (see General Survey, op. cit., paragraph 158).
- (m) Denial of the right to strike in enterprises which have been in existence for less than two years (Act No. 8 of 1981). CONATO pointed out that under section 12 of the Act, no employer shall be compelled to conclude collective agreements during the first two years of an enterprise's operation and that the general legislation permits strikes only in pursuance of collective bargaining or in other limited cases. The Committee asked the Government to provide its comments on this matter.
- (n) Need for the support of the majority of the workers in the enterprise, shop or establishment to call a strike (section 476(2) of the Labour Code). The Government indicated previously that it considered the restriction to be justified by the effects produced by strikes under the national legislation (closure of the enterprise, prohibition upon the conclusion of new employment contracts, etc.). The Committee takes due note that the Government and the social partners indicated to the mission that at the third meeting of the union assembly, the requirement is for a simple majority of voting members.

3. Concerning these abovementioned issues, the Committee notes the following positions of the social partners as indicated to the technical assistance mission. In this respect:

- CONEP indicated that: (a) transport must be kept among the public services because its interruption in the event of a strike would paralyse essential services, including those carried on by public employees; arbitration at the request of only one of the parties is not compatible with the Convention; (b) prefers not to comment on this matter; (c) a minimum of 40 workers to establish a union is reasonable; the minimum number of employers to establish an employers' association should be four; (d) it is not the time to amend the Constitution. It prefers not to comment until it has analysed the value of an ILO Convention as compared to the Constitution. In practice, employers form chambers, not organizations and these are governed by civil law, although employers' associations are envisaged in the Labour Code; (e) prefers not to comment on this matter; (f) in the event of a strike, the right of access to the enterprise of management staff and the freedom of non-strikers to work should be safeguarded; (g) prefers not to comment on this matter; (h) legislation has been challenged as unconstitutional and work is under way on new legislation to govern work at sea; (i) prefers to maintain the status quo, i.e. that such strikes are illegal; (j, k, l) prefers not to comment on these issues; (m) that it is reasonable to allow enterprises with less than two years' standing enough breathing space to establish themselves, so the prohibition on collective bargaining and indirectly, on strikes, is reasonable.
- CONATO indicated that: (a) transport should be removed from the list of public services for the purposes of this section. Furthermore, they do not agree with ILO's position against compulsory arbitration at the request of the workers; (b) prefers to maintain trade union unity at public institution level; (c) the minimum number of workers to establish a union should be 20. Employers should be able to establish associations with four members; (d) the trade union movement has no interest in amending this rule; (e) transport should be removed from the list of essential public services; (f) these provisions should not be amended. The ban on employers' admission during strikes should be maintained; (g) the number 30 should be replaced by 40 but the phrase "but no more than one chapter per province" should be deleted because it constitutes a restriction; (h) maritime sector: unlike the Labour Code, section 75 of Legislative Decree No. 8 of 1998 lays down no obligation to conclude collective agreements but allows

enterprises to conclude them, which in practice has led to claims of this kind being rejected, so that it is in fact impossible to call a strike in support of a demand for a collective agreement; (i) trade union organizations of different levels should have the right to strike in their various areas of competence, including against the Government's economic and social policy; (j) any restriction on federations and confederations joining other organizations of their choice should be eliminated; (k, l) the public sector being excluded by section 2 from the Labour Code, it is not covered by the right to conclude collective labour agreements as there is no such right in the Administrative Careers Act. Although section 135 of the Act gives associations the right to collective negotiation in disputes, there are no specific provisions allowing this right to be put into effect nor is the right to conclude collective agreements recognized. Furthermore, the restrictions in section 183 prevent exercise of the right to strike in a collective conflict of interests; (m) section 12 of Act No. 8 of 1981 establishes that there is no obligation to negotiate collective agreements in enterprises that have been in existence for less than two years, which in practice means that any grievances that include such claims are rejected. In other words, not only is the right to collective bargaining of workers restricted, but exercise of the right to strike to support a demand for a collective agreement is prevented.

- Concerning export processing zones, the Committee notes that CONEP points out that workers in exports in processing zones may call strikes if they have industry unions. CONATO indicates that, since Act No. 25 of 1992 likewise establishes in section 49, paragraph B, No. 9, that enterprises may not conclude collective agreements, the same occurs as in the maritime sector, i.e. workers may not call a strike to support a claim to a collective labour agreement. The Government states that there is a new Bill on export processing zones. ***The Committee requests the Government to communicate a copy of the new legislation as soon as it is adopted.***

4. The Committee notes the Government's statements that: (1) it has repeatedly stated its readiness to align national law and practice with these Conventions, but to do so implies amending the Labour Code; it would be in a position to promote such amendments *only* with the agreement of the employers' and workers' organizations; (2) the final report of the technical assistance mission has still not been received, but it can already say that at the meetings the mission held with the social partners, there were glaring differences in the views of CONEP and CONATO regarding amendment of the Labour Code to take account of the points made about Conventions Nos. 98 and 87; and (3) it is awaiting the mission's final report.

5. The Committee observes that some legal provisions might be reformed in the very near future in so far as the Government, CONATO and CONEP are not opposed to them. Such amendments include: (1) reducing to four the number of employers needed to establish an employers' association; (2) removing the restriction on the free affiliation of associations of public servants to other trade union organizations, particularly those of a higher level, grouping public servants and other workers; (3) the possibility for associations of public servants to have more than one chapter (section) per province.

The Committee notes with regret that the abovementioned discrepancies between law and practice and the Convention still exist after many years, and that some of the restrictions that the Government does not wish to eliminate are serious, for example, the imposition by law of trade union unity for public institutions, the legal requirement that trade union leaders must be Panamanian and the fact that the law does not allow strikes against the Government's economic and social policy. ***The Committee requests the Government to fulfil its commitment to arrange meetings with the social partners in the form of seminars or workshops with ILO support and actively to promote tripartite dialogue on all pending issues. The Committee expresses the hope that it will be in a position in the very near future to note improvements in the legislation, and requests the Government to keep it informed in this regard and, in accordance with its assurances to the technical assistance mission, to ensure that the proposals to reform the trade union legislation are not used to regulate or include other issues.***

The Committee is addressing a direct request to the Government on the complaint challenging as unconstitutional Legislative Decree No. 8 of 1998 concerning the right to strike of workers engaged at sea and on inland waterways, on the draft reform of the Act on export processing zones (World Trade Zones Bill) and on the Bill to reform the Administrative Careers Act in part.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee notes the Government's report, the comments on the application of the Convention made by the National Council of Organized Workers (CONATO) and the National Council of Private Enterprise of Panama (CONEP) and the conclusions and recommendations of the Committee on Freedom of Association in Case No. 1931 presented by the International Organization of Employers (IOE) (see 318th Report, paragraphs 493 to 507), and the report of the technical assistance mission which visited Panama from 6 to 9 February 2006 concerning the application of Convention No. 87, and it welcomes the fact that the Government agreed to extend the mission's mandate to issues relating to the application of Convention No. 98. The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU), dated 10 August 2006, which relate essentially to matters that are already under examination.

The Committee raises below the issues to which it referred in its previous observation on the application of Convention No. 98 and the positions of the Government and the social partners as they are indicated in an annex to the report of the technical assistance mission:

Problems indicated by CONATO

(a) Denial of collective bargaining in enterprises established for less than two years (section 12 of Act No. 8 of 1981);

CONEP: Considers that it is reasonable to give space to enterprises established for less than two years to stabilize their situation and that this prohibition of collective bargaining, and indirectly of strikes, is therefore reasonable.

CONATO: Section 12 of Act No. 8 of 1981 provides that it is not compulsory for enterprises which have been established for less than two years to negotiate a collective agreement, with the practical consequence of the rejection of the claims made for this purpose.

Government: if there is agreement between the social partners there is no obstacle to allowing collective agreement in enterprises established for less than two years.

The Committee maintains its previous comments and considers that this restriction on collective bargaining is incompatible with the requirements of the Convention.

(b) Restrictions on collective bargaining in the maritime sector;

CONEP: An appeal has been launched to find this provision unconstitutional and work is currently being undertaken on new legislation respecting maritime labour.

CONATO: As section 75 of Legislative Decree No. 8 of 1998, in contrast with the Labour Code, does not establish the obligation to conclude collective agreements, but provides that enterprises may conclude them, this has in practice led to the denial of workers' claims for this purpose and therefore the impossibility in practice to call a strike in support of the requirement to conclude a collective agreement.

Government: an application has been lodged for Legislative Decree No. 8 to be found unconstitutional. The outcome of the new ILO Consolidated Maritime Convention is awaited. A draft text of a new Maritime Code will be submitted to the Legislative Assembly in the near future.

The Committee requests the Government to provide the ruling of the Supreme Court of Justice and the draft text of the new Maritime Code.

(c) Collective bargaining with groups of non-unionized workers in the private sector (section 431 of the Labour Code), even where a union exists, in the context of acts of interference by the employer; in particular, the exclusion of claims in certain cases, for example when the union notifies a situation of collective dispute and agreements have already been concluded with representatives of non-unionized workers:

CONEP: It is necessary to comply with the view of the Supreme Court, even though it has not yet been consolidated, that the enterprise may negotiate directly with the workers if the trade union does not hold negotiations.

CONATO: In practice, in violation of the law, groups of non-unionized workers in the private sector are being allowed to exclude unions from exercising collective bargaining by means of alleged accords prepared by the enterprise, as an overtly trade union practice and without there being any real submission of claims by non-unionized workers. As a consequence of these so-called trade union practices (which are flagrant), the agreements in question prevent, for up to four years, trade unions from being able to seek to engage in collective bargaining or to submit claims.

Government: there are no longer problems with collective accords with non-unionized workers, as these practices came to an end in September 2004; the Ministry of Labour does not accept a direct accord if claims have been submitted by the trade unions; if there are two sets of claims (one trade union and the other not from trade unions) the Labour Code establishes a procedure for competing claims (sections 402 and 416).

In view of the differences between the viewpoints of CONATO, CONEP and the Government, the Committee requests the latter to initiate tripartite dialogue on this issue with a view to achieving compliance with the principle that collective bargaining with groups of non-unionized workers should only be possible in the absence of a trade union.

(d) Denial of the right of collective bargaining to public officials not engaged in the administration of the State (section 135 of the Act on administrative careers).

CONEP: Prefers not to give its views on strikes by public officials as it is a matter which lies within the Government's responsibility.

CONATO: As they are excluded from section 2 of the Labour Code, they are not covered by the right to conclude collective labour agreements, which is not included in the Act on administrative careers. Even though section 135 of this Act affords associations the right of collective bargaining to resolve disputes, there is no specific articulation of this and other provisions to ensure that it is operational, nor is the right to conclude collective agreements recognized.

The Committee notes from the mission report and the information provided by the Government that a draft reform of the Act on administrative careers is under discussion and it hopes that the future law will recognize and regulate the right to collective bargaining of public officials covered by the Convention in a manner which is in full accordance with the latter.

Problems indicated by CONEP

In its previous comments, the Committee noted that the CONEP indicates that the Government has not carried out the reforms requested by the Committee of Experts and the Conference Committee since 2000. Moreover, in its examination of Case No. 1931, the Committee on Freedom of Association observed that Panamanian legislation is not sufficiently clear with regard to certain aspects, that it regulates industrial relations in too much detail which constitutes a significant interference, and it contains provisions that are contrary to the principles to freedom of association and

collective bargaining. More specifically, CONEP emphasized various points which were also raised by the Committee of Experts.

(a) The need to amend the legislation so that the payment of wages for strike days is not imposed by the legislation in the case of strikes attributable to the employer (section 514 of the Labour Code) but a subject for collective bargaining between the parties concerned. In this respect, the Committee notes that according to the mission report the positions of the Government and the social partners are as follows:

CONEP: In agreement with the position of the ILO that the payment of wages during strikes should be a subject for negotiation between the parties.

CONATO: This provision should not be amended.

Government: Open to consensus reached by the parties on this issue.

The Committee recalls that provisions which limit the subjects for negotiation between the parties relating to relations between them are incompatible with the Convention.

(b) The need, based on existing standards and procedures relating to conflicts of rights or interpretation, to establish a clear and rapid procedure, involving workers' and employers' organizations, to ascertain failure to comply with the legal provisions and the clauses of collective agreements with a view to preventing collective disputes on these issues.

CONEP: A provision should be added establishing a procedure for the resolution of conflicts of rights.

CONATO: This provision should not be amended.

Government: Does not wish to express an opinion but can go along with the consensus reached by the parties; referred to Act No. 53 of 1975 under which collective disputes relating to collective agreements can be resolved.

The Committee observes that Act No. 53 establishes the exclusive competence of the Ministry of Labour and Social Welfare to receive and decide on "requests relating to the interpretation of the law or the validity of clauses concluded in a collective agreement or other accord of a collective nature" and establishes a specific procedure with the participation of the parties to guarantee their right of defence. The Committee considers that it is not necessary to pursue its examination of this matter, unless CONEP provides new elements.

(c) Obligation for the number of delegates of trade unions, employers and employers' organization to be between two and five (section 427 of the Labour Code).

CONEP: Agrees with the position of the ILO that the parties should determine the number of delegates and advisers in negotiations.

CONATO: This provision (section 427(3)) should remain as it is; in practice it does not raise problems and enterprises often go beyond the statutory number of representatives.

Government: Is open to a possible amendment if there is agreement between the social partners.

The Committee considers that the parties to collective bargaining should be able to negotiate the number of delegates who are to participate in negotiations.

2. The Committee notes the Government's statements that: (1) on repeated occasions it has expressed its readiness to harmonize national law and practice with these Conventions, but to achieve such harmonization, which involves amendments to the Labour Code, the Government would *only* be able to promote them if it had the consensus of employers' and workers' organizations; and (2) the final report of the technical assistance mission has not yet been received, but it may already be noted that in the meetings held with the social partners the differences between them were significant.

The Committee observes that the positions of CONATO and CONEP are divergent with regard to the amendment of the legislation on the points referred to above, as well as with regard to the possibility of compulsory arbitration at the request of one of the parties (the trade union organization) under section 452 of the Labour Code, which affects the application of Convention No. 98 and restricts the principle of free and voluntary negotiation. It also notes that the Government is prepared to make changes if there is consensus. The Committee wishes to place emphasis on one of the conclusions of the technical assistance mission:

The mission reminded the Government that the process of creating tripartite consensus requires a proactive and committed attitude from the Government in taking the necessary action to achieve this objective. It was in this context that the Minister of Labour announced the decision to hold certain preliminary meetings with workers' and employers' organizations (each separately) in the form of seminars or workshops to discuss the freedom of association Conventions and the national provisions for the purpose of which it requested, through the mission, the support of the ILO. In view of its findings, the mission considers it appropriate that this and other technical and operational support should be provided to the Government and the social partners in Panama.

The Committee regrets to note that the divergences referred to above between national law and practice and the Convention have persisted for many years and it recalls the gravity of certain of these divergences. ***The Committee requests the Government to give effect to its commitments made to the technical assistance mission concerning meetings with the social partners in the form of seminars or workshops with ILO support and to actively promote tripartite dialogue on all pending issues. The Committee hopes that in the near future it will be able to note improvements in the legislation and requests the Government to provide information in this respect and that, in accordance with the commitment given to the technical assistance mission, any draft amendment to the legislation or the industrial relations will not be used to regulate or include other issues.***

Papua New Guinea

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (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 noted that a major legislative review was being undertaken in relation to all labour legislation.

In its previous comments, the Committee had asked the Government to inform it of any progress made regarding the adoption of amendments repealing section 42 of the Industrial Relations Act and section 52 of the Public Service Conciliation and Arbitration Act which give the authorities a discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy or national interest.

The Committee noted that a previous report of the Government indicates that those sections are intended to be amended by article 32 of the Draft Industrial Relations Bill, 2003, which states: "The minister may, on behalf of the State, appeal as of right against the making of an award or order (including an award or order made by consent) or the certification of an agreement, on the ground that the making of the award or order, or the certification of the agreement, is contrary to public interest."

Noting that article 32 of the Draft Industrial Relations Bill, 2003, is a certain improvement in regard to the issues raised above, the Committee had observed that it confers a broad power to the Minister of Labour to assess collective agreements on grounds of public interest. Recalling that legislative provisions will only be compatible with the Convention if they merely stipulate that approval of collective agreements may be refused if the collective agreement has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation (see General Survey on freedom of association and collective bargaining, 1994, paragraph 251), the Committee requests the Government to take measures to ensure that article 32 of the Draft Industrial Relations Bill, 2003, is in conformity with this principle. The Committee hopes that the ILO technical assistance currently in progress will contribute to the resolution of this problem.

Finally, the Committee noted that the Draft Industrial Relations Bill seemed to institute a system of compulsory arbitration when conciliation between parties fails. The Committee recalls that, in general, compulsory arbitration should only be possible in the framework of essential services in the strict sense of the term.

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

Paraguay

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

The Committee notes the Government's report. The Committee also notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006 which refer to matters already raised by the Committee.

The Committee recalls that for many years it has been commenting on the lack of conformity of various provisions of the legislation with the Convention.

Article 2 of the Convention. The requirement of an excessively high number of workers (300) to establish a trade union at the sectoral level (section 292 of the Labour Code). The Committee notes the Government's comments that the Convention contains no provisions or restrictions in this respect and that it is therefore necessary to adapt to the national situation, in which this requirement retains a proportional relationship with the population of the country and its level of industrialization. The Government adds that it is a flexible requirement as it is possible to establish a union at the level of an occupation with 30 workers and a works union with 20 workers. In this respect, the Committee recalls that, although the requirement of a minimum number of members to be able to establish an organization is not in itself incompatible with the Convention, the minimum number should be fixed in a reasonable manner so that the establishment of organizations is not hindered (see 1994 General Survey on freedom of association and collective bargaining, paragraph 81). In this regard, the Committee considers that the number of 300 workers to establish a trade union at the sectoral level is too high and constitutes an obstacle for the establishment by workers of organizations of their own choosing. ***The Committee therefore requests the Government to take the necessary measures to amend the legislation to reduce the requirement of 300 workers to establish a branch trade union to a reasonable number.***

Imposition of excessive requirements to be able to hold office in the executive body of a trade union: the need to be an employee in the enterprise, industry, occupation or institution, whether active or on leave (section 298(a) of the Labour Code), to have reached the age of majority and to be an active member of the union (section 293(d) of the Labour Code). The Committee notes that, according to the Government, these requirements do not constitute restrictions on freedom of association, but protect trade union activity from outside interference and constitute a safeguard for the democratization of all institutions. The Government adds that any trade union can authorize a person to participate in its management who is not an active worker, but that the provision is intended to prevent this situation from becoming usual practice with the consequence that the management of trade unions would be distant from the workers that they claim to represent. With regard to the requirement to be an active member of the union, the Government indicates that this is a requirement for all elections of whatever type held in the country. In relation to the requirement to have reached the age of majority, the

Government notes that the situation has been resolved by the adoption of the new Children and Young Persons Code (Act No. 1680 of 2001, which establishes the right to organize and participate in workers' organizations (section 53(f)).

The Committee recalls that provisions which require the members of a trade union to belong to the respective occupation and that the officers of the organization be chosen from among its members are contrary to the Convention. Provisions of this type infringe the right of organizations to elect representatives in full freedom by preventing qualified persons, such as full-time union officers, from carrying out union duties or by depriving unions of the benefit of the experience of certain officers when they are unable to provide enough qualified persons from among their own ranks. When national legislation imposes conditions of this kind on all trade union leaders, there is also a real risk of interference by the employer through the dismissal of trade union officers, which deprives them of their trade union office. In order to bring such legislation into conformity with the Convention, it would be desirable to make it more flexible, either by admitting as candidates persons who have previously been employed in the occupation concerned, or by exempting from the occupational requirement a reasonable proportion of the officers of an organization (see General Survey, op. cit., paragraph 117). ***Under these conditions, the Committee requests the Government to take the necessary measures to amend the legislation (sections 293(d) and 298(a)) in accordance with the principles indicated above.***

The prohibition for workers to join more than one union even if they have more than one part-time employment contract, whether at the level of the enterprise, industry, occupation or trade, or institution (section 293(c) of the Labour Code). The Committee notes the Government's indication that this requirement is derived from the provisions of the Electoral Code, which does not allow double or triple membership. The Committee recalls that *Article 2* of the Convention establishes the right of workers to join organizations of their own choosing and that, in this respect, workers who have more than one occupation in different enterprises or sectors should be able to join the unions that correspond to each of the categories of work that they perform and to be members, at the same time, if they so wish, of a union at the level of the enterprise and the occupation. ***The Committee requests the Government to take the necessary measures to amend the legislation as indicated above.***

Article 3. The requirement that trade unions must comply with all requests for consultations or reports from the labour authorities (sections 290(f) and 304(c) of the Labour Code). The Committee notes that, in the view of the Government, this relates to the same obligation of transparency that the Constitution of the Republic imposes on each of the branches of the public authority in relation to appropriate information procedures. Furthermore, requests for information have the sole purpose of ascertaining compliance with the law. In this respect, the Committee recalls that problems of compatibility with the Convention arise when the law gives the administrative authorities powers to examine the books and other documents of an organization, conduct an investigation and demand information at any time. The Committee considers that such an obligation should be confined to submitting annual financial reports or in cases of denunciations by union members of violations of the law or the union's rules (see General Survey, op. cit., paragraphs 125 and 126). ***The Committee therefore requests the Government to amend the legislation in accordance with the principle set out above.***

The submission of collective disputes to compulsory arbitration (sections 284-320 of the Code of Labour Procedure). The Committee notes that, according to the Government, these provisions were tacitly repealed by article 97 of the Constitution of the Republic enacted in 1992, which provides that "the State shall facilitate conciliatory solutions to labour disputes and social dialogue. Arbitration shall be optional." In this respect, the Committee considers that strikes are one of the essential means available to workers and their organizations to promote their economic and social interests. Systems under which one of the parties may refer a dispute to compulsory arbitration seriously limit the means available to trade unions to further and defend the interests of their members, as well as their right to organize their activities and to formulate their programmes, and are not compatible with *Article 3* of the Convention (General Survey, op. cit., paragraphs 148 and 153). ***The Committee therefore requests the Government, in accordance with the provisions of the Constitution and with a view to avoiding any possible ambiguity of interpretation, to take the necessary measures to explicitly repeal sections 284-320 of the Code of Labour Procedure, which provide for compulsory arbitration in collective disputes.***

The requirement that, for a strike to be called, its sole purpose must be directly and exclusively linked to the workers' occupational interests (sections 358 and 376(a) of the Labour Code). The Committee notes that, in the view of the Government, strikes may only have as their origin conflicts of interest, such as those involved in a simple economic collective conflict relating to the claims of the workers, in contrast with legal conflicts, which must always be referred to the judicial authorities. In this respect, the Committee reminds the Government that trade union organizations, which are responsible for defending the socio-economic and occupational interests of workers, should be able to use strike action to support their positions in the search for solutions to problems posed by major economic and social policy trends which have a direct impact on their members and on workers in general, in particular as regards employment, social protection and standards of living. ***The Committee requests the Government to take the necessary measures to amend sections 358 and 376 in accordance with the principle recalled above.***

Section 362 of the Labour Code establishes the obligation to ensure a minimum service in the event of a strike in public services that are essential to the community, without the requirement to consult the employers' and workers' organizations concerned. The Committee notes that, according to the Government, minimum services are those in which a total stoppage would endanger the life, health or personal safety of the whole or part of the population and that the law

does not provide that such minimum services shall be imposed without consulting the representative organizations of workers and employers concerned. According to the Government, in practice, when a strike occurs in these sectors, the labour administration authorities convoke the workers' organizations and employers that are parties to the conflict to a meeting to define the essential services. The Committee recalls that workers' organizations should be able, if they so wish, to participate in defining minimum services along with employers and the public authorities, and that any disagreement as to the number and duties of the workers concerned should be settled by an independent body and not unilaterally by the administrative authorities. *Under these conditions, the Committee requests the Government to take the necessary measures to guarantee explicitly in the legislation the right of workers' and employers' organizations to participate in defining minimum services and, where disagreements arise as to the number and duties of the workers concerned, they should be settled by an independent body.*

In view of the fact that the Committee has been making these comments for many years, without progress being achieved in practice, it requests the Government to take the necessary measures to bring its legislation into conformity with the Convention forthwith, in accordance with the principles set out above. The Committee draws the Government's attention to the fact that the technical assistance of the Office is at its disposal.

Finally, the Committee notes that the Government did not reply to the comments from the ICFTU of 2005 referring to numerous violent acts, including the murder of trade unionists. *The Committee requests the Government to send its observations thereon.*

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee notes the Government's report.

ICFTU comments. The Committee also notes the comments of the International Confederation of Free Trade Unions (ICFTU), of 10 August 2006, referring to matters already raised by the Committee. The Committee recalls in this connection that in its previous observation it noted the ICFTU's earlier comments (2005) referring to numerous acts of violence, including the murders of trade unionists, acts of anti-union discrimination against trade union leaders and members, as well as delays in the administration of justice. The Committee also noted the comments of the Trade Union of Maritime Dockworkers of Asunción (SEMA) relating to interference by employers in private ports and river and maritime transport agencies through the creation of trade unions favourable to the enterprise which negotiate lower minimum daily wages and deprive workers of social security. The Committee regrets that the Government's report does not contain any practical information on these matters. The Committee recalls that no person should be dismissed or prejudiced in his or her employment by reason of trade union membership or legitimate trade union activities, and it is important to forbid and penalize in practice all acts of discrimination in respect of employment. The Committee also recalls that *Article 2 of the Convention* establishes the total independence of workers' organizations in relation to employers in the organization of their activities. Moreover, cases relating to issues of anti-union discrimination and interference, in violation of Convention No. 98, should be examined rapidly so that the necessary remedial measures can be really effective. *Under these conditions, the Committee requests the Government to take the necessary measures to undertake an investigation of the allegations and, if they are found to be true, to take measures to bring them to an end by imposing dissuasive penalties on those responsible. The Committee requests the Government to keep it informed on this matter and to indicate the measures that it is considering to overcome the problem of delays in the administration of justice in cases relating to anti-union acts.*

Articles 1 and 2 of the Convention (protection against acts of discrimination and anti-union interference). The Committee recalls that for many years its comments have been referring to:

- the absence of legislative provisions affording protection to workers who are not trade union leaders against all acts of anti-union discrimination (article 88 of the Constitution affords protection only against discrimination based on trade union preferences); and
- the absence of sanctions for non-observance of the provisions relating to the employment stability of trade unionists and acts of interference in workers' and employers' organizations by each other (the penalties envisaged in the Labour Code for failure to comply with the legal provisions on this point in sections 385, 393 and 395 are not sufficiently dissuasive).

The Committee notes that, according to the Government, the legislation contains constitutional provisions and laws which afford real protection to workers who are not trade union leaders against acts of anti-union discrimination and interference, and that these provisions are also applicable to public officials and employees. In this respect: (1) article 88 of the national Constitution prohibits discrimination against workers on grounds of their trade union preferences; (2) article 99 of the Constitution provides that "failure to comply with labour standards ... shall be subject to inspection by the authorities established by the law, which shall establish sanctions in the event of their violation"; (3) Act No. 1416/99 amended section 385 of the Labour Code by establishing that: those violations of the law for which there is no specific penalty shall be sanctioned by penalties of between 10 and 30 minimum daily wages for each worker concerned; the administrative authority shall order the temporary suspension of the activities undertaken by the employer with the payment of the wages due for dependent workers in cases in which within one year the violation of the provisions of the

Labour Code is repeated and affects over 10 per cent of the workers or involves failure to comply with sections 393, 394 and 395 of the Labour Code (respecting sanctions in the event of disloyal practices by the employer violating guarantees of the employment stability of trade unionists, denial to recognize or deal with a trade union or to enter into collective bargaining, as well as the inclusion of workers on blacklists): in the event of a further violation, the labour authorities may double the penalty or cancel the registration of the employer; and (4) section 286 of the Labour Code prohibits acts of interference by trade unions by each other, which shall also be penalized.

The Committee considers that, except in the case of repeated anti-union acts by the employer, the penalties established are not sufficiently dissuasive. It therefore requests the Government to take the necessary measures to adopt provisions providing adequate protection against acts of anti-union discrimination and interference and to keep it informed of any developments in this respect.

Articles 4 and 6. Collective bargaining in the public sector. The Committee also notes Act No. 508 on collective bargaining in the public sector. The Committee understands that this is the special law which, under section 51 of Act No. 1626 on the public service, governs contracts of employment, of which the Committee requested a copy in its previous observation. The Committee also requested the Government to identify the provisions which afford protection to public servants and public employees who are not trade union leaders against acts of anti-union discrimination. The Committee notes that the Government refers to sections 49 and 124 of the Act on the public service. However, the Committee notes that these provisions are of a general nature and refer to the right of public servants to stability of employment, equality without discrimination and to organize for social, economic, cultural and occupational purposes. The Committee considers that these provisions do not constitute adequate protection against all acts of anti-union discrimination, within the meaning of *Article 1* of the Convention (which not only covers dismissal, but also transfer and other prejudicial measures), and it recalls that the protection afforded to workers and trade union officials against acts of anti-union discrimination constitute an essential aspect of freedom of association (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 202 and 203). *Under these conditions, the Committee requests the Government to take the necessary measures to establish in the legislation adequate protection against acts of anti-union discrimination against public servants not engaged in the administration of the State, including when they are trade union leaders, and also to establish sufficiently dissuasive sanctions against those responsible for violations.*

Finally, the Committee requests the Government to reply to the ICFTU's comment that collective agreements have to be submitted to compulsory arbitration.

Bearing in mind that the Committee has been making these comments for many years, without progress being achieved in practice, it urges the Government to take the necessary measures to bring the legislation into conformity with the Convention without delay. The Committee draws the Government's attention to the fact that the technical assistance of the Office is at its disposal.

Peru

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee takes note of the Government's report and of its reply to the comments of 31 August 2005 by the International Confederation of Free Trade Unions (ICFTU). It likewise notes the ICFTU's comments of 10 August 2006 and those of 7 April 2006 by the National Union of Public Employees of the Armed Forces (SINEP-FFAA) referring to matters raised by the Committee. These comments also assert that trade union leaders have been threatened for participating in a protest, that the daughter of one trade union leader was abducted, that an attempt was made on the life of the President of the General Confederation of Workers of Peru (CGTP) and that trade unions have been refused registration. The Committee notes that, according to the Government: (1) the president of the CGTP has been offered protection and an investigation is under way; (2) there is not enough information on the alleged acts of violence. The Committee reminds the Government that trade union leaders can perform their duties only where fundamental human rights are observed and fully guaranteed, particularly the right to life and personal safety. ***The Committee requests the Government to provide information on any investigations and court decisions relating to the alleged violence and to send its observations on the other comments still pending.***

Article 3 of the Convention. Right to strike. In its previous comments, the Committee raised the following matters:

- the power of the labour administration to determine minimum services, in the event of disagreement, when a strike is declared in essential public services (section 82 of the Industrial Relations Act of 1992). The Committee notes that the recently drafted General Labour Bill, No. 67/2006-CR, repeals the Industrial Relations Act and provides, in section 406, that in the event of disagreement the workers' representative may take the matter within five days to the tripartite body set up for the purpose by the National Labour Council, for settlement within five days;
- section 73(b) of the Industrial Relations Act of 1992 which provides that the decision to call a strike has to be adopted in the form expressly set out in the statutes and must in any event represent the will of the majority of the workers concerned. The Committee notes that, according to the Government, Supreme Decree No. 011-92-TR (regulating section 73(b)) has been replaced by section 62 of Supreme Decree No. 013-2006-TR to provide that "the

trade union organization may declare a strike in the form expressly set out in its statutes, provided that the decision to strike is adopted by a majority of its voting members". The Committee nonetheless observes that section 62 of Supreme Decree No. 013-2006-TR provides that "in order for the trade union to call a strike, at least two-thirds of the total membership must be present at the time of voting". The Committee reminds the Government in this connection that a quorum of two-thirds of the members may be difficult to reach when a union has a large membership or covers a large geographical area and that if a member State sees fit to establish by law that strike action must be put to the vote of the workers, it must make sure that only the votes cast are counted and that the requisite quorum or majority is set at a reasonable level. The Committee understands that in any event the recently drafted General Labour Bill is to repeal the Industrial Relations Act and its regulatory decrees (third supplementary provision of the Bill).

In these circumstances, the Committee expresses the hope that the law adopted will conform fully to the Convention and requests the Government to provide information on the progress of the abovementioned Bill in its next report.

Article 6. In its previous comments, the Committee noted that federations and confederations of public servants are barred from joining organizations that represent other categories of workers (section 19 of Supreme Decree No. 003-82-PCM) and asked the Government to take steps to bring this provision into line with the administrative authority's practice of allowing this kind of organization. The Committee notes that, according to the Government, the National Directorate of Labour Relations has issued a resolution, No. 001-2004-MTPE/DVMT/DNRT on the registration of trade union organizations of public servants. The Committee observes that the resolution allows the establishment only of trade union organizations whose members include public servants covered by various legal regimes (one being the private activities labour regime), but does not allow federations and confederations of public servants to form part of organizations that represent other categories of workers. ***The Committee requests the Government to take the necessary measures to amend section 19 of Supreme Decree No. 003-82-PCM to allow federations and confederations of public servants to establish or join organizations of their own choosing.***

Other matters. In its previous observation, the Committee asked the Government: (1) to place the Union of Workers of Petro Tech Peruana SA back on the register; and (2) not to cancel the registration of the Union of Ticket Sellers and Ushers in Cinematographic Enterprises on the ground that it had only 57 members instead of the 100 required by the law, now amended. The Committee notes that, according to the Government, the *Mar y Tierra* Workers' Union of Petro Tech Peruana SA has been entered in the Register of Trade Union Organizations, and the registration of the Union of Ticket Sellers and Ushers in Cinematographic Enterprises has not been cancelled.

Lastly, the Committee takes note of a bill approving mechanisms to ensure transparency in the election of executive boards of trade unions, federations and confederations of public sector workers which amends section 5(a) of Act No. 26487 (Basic Act on the National Register of Identity and Civil Status) and section 5 of Act No. 26486 (Basic Act on the National Elections Commission). The Committee observes that the bill requires unions, federations and confederations of public sector workers, within 120 days at most, to align their statutes with the provisions of the bill establishing that:

- the National Office for Electoral Processes is responsible for organizing all elections of executive boards held in general assemblies of unions, federations and confederations of public sector workers with a membership of at least 20,000;
- the National Elections Commission is responsible for supervising elections of executive boards held in general assemblies of unions, federations and confederations of public sector workers with a membership of at least 20,000;
- the Commission has the authority to declare null and void elections of executive boards held in general assemblies of unions, federations and confederations of public sector workers with a membership of at least 20,000.

The Committee reminds the Government that the regulation of procedures and arrangements for the election of trade union leaders is a matter to be addressed in statutes of workers' organizations and not in some body outside the organization, and that any disputes arising in connection with elections should be settled by the judicial authority. ***In these circumstances, the Committee requests the Government to take the necessary measures to ensure that the abovementioned bill takes into account the principle recalled above and to keep it informed of any developments regarding the relevant legislation.***

The Committee is addressing a request concerning other matters directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1964)

The Committee notes the Government's report and the reply to the observations of 31 August 2005 and 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) referring to some legislative matters raised in the Committee's previous observation and a number of issues pertaining to the practical effect given to the Convention, in particular anti-union dismissals of trade union leaders, the dismissal of members shortly after a union was created and pressure exerted on the members of a union. The Committee notes that, according to the Government, in most of the

instances cited by the ICFTU in 2005 and 2006, the parties came to an agreement or the trade union filed complaints with the courts or administrative tribunals.

1. *Articles 1 and 2 of the Convention.* For several years the Committee has been referring to: (1) the lack of sanctions against acts of interference by employers in trade union organizations, and (2) the slow judicial procedures for dealing with complaints of anti-union discrimination or interference. The Committee observes that in its observations, the ICFTU refers to cases of anti-union discrimination and of interference by employers in union affairs. It notes that, according to the Government's report: (1) the Constitutional Court has ruled that freedom of association is comprehensive in nature, its protection therefore extends to trade union autonomy, namely the freedom to operate freely without any outside interference or other action that may affect it; (2) according to the Fourth Final and Transitional Provision of the Constitution, constitutional rights must be interpreted in accordance with the relevant international agreements signed by the Peruvian State; such agreements are accordingly a parameter for interpreting the rights enshrined in the Constitution, which means that the concepts, scope and coverage of the protection laid down in the agreements constitute parameters to be taken into account where a constitutional right needs interpretation; in any event such international agreements apply directly being part of Peruvian domestic law; any act of interference directly affects the right to organize, which is guaranteed under article 28 of the Constitution; accordingly, any trade union organization affected by acts of interference on the part of an employer has a constitutional right to go to the Constitutional Court, the redress in such event being restoration of the status quo ante.

While taking due note of the Government's observations, the Committee again points out that the legislation must make express provision for prompt and sufficiently dissuasive sanctions against acts of interference by employers in workers' organizations and that complaints of anti-union discrimination and interference need to be processed promptly for remedial measures to be really effective. ***The Committee requests the Government to take steps to bring its legislation fully into conformity with the Convention's requirement for express prohibition of acts of interference, and to provide information in its next report on all measures taken to this end, including: (a) measures to ensure that sufficiently dissuasive sanctions are imposed for acts of interference, and (b) measures to speed up the administrative and judicial procedures for cases of anti-union discrimination. The Committee notes that the draft of the General Labour Act has been submitted to the National Congress and that the ILO assisted in its preparation. The Committee trusts that the future Act will contain the amendments that the Committee has requested.***

2. *Article 4.* The Committee previously asked the Government to take steps to repeal section 9 of Supreme Decree No. 003-97-TR, the unified text of Legislative Decree No. 728 (Labour Productivity and Competitiveness Act) under which employers may introduce changes or modify shifts or working days or hours, and processes and arrangements for performing tasks. The Committee notes with satisfaction that Supreme Decree No. 013-2006-TR has amended section 9 of the Labour Productivity and Competitiveness Act to read as follows: "Section 2. – Section 9 of the unified text of Legislative Decree No. 728, the Labour Productivity and Competitiveness Act, approved by Supreme Decree No. 003-97-TR, shall not be so construed as to allow the employer unilaterally to change the content of previously concluded collective agreements, or to require them to be renegotiated, or to affect freedom of association in any other manner".

3. The Committee notes that, according to the ICFTU, a collective agreement has been concluded in the construction sector after 13 years of demands for a sectoral agreement. The Committee also takes note of the conclusions of the Committee on Freedom of Association in Case No. 2375 regarding the level of collective bargaining in the construction sector as well as the particular concerns expressed by the Government thereon. ***The Committee requests the Government to keep it informed on any development on this issue.***

4. The Committee previously asked the Government to repeal or amend Emergency Decree No. 011-99 and Ministerial Resolution No. 075-99-EF/15 providing for a special general productivity-related bonus in the public sector. The Committee notes from the Government's information that these provisions are not as yet in force.

Philippines

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1953)

The Committee notes the Government's report and its reply to the comments of the International Confederation of Free Trade Unions (ICFTU) dated 31 August 2005, which mainly refer to matters previously raised by the Committee. Furthermore, the Committee also notes the new comments submitted by the ICFTU, in a communication of 10 August 2006, that once again refer to issues raised by the Committee and to serious allegations of murder of four trade union leaders in 2005, anti-union violence in the sugar sector, death threats to discourage union formation in the economic zone in Cavite, and the non-arrest of the authors of the killings of seven strikers in November 2004. Concerning these serious allegations, the Committee wishes to emphasize that respect for civil liberties is essential for the exercise of freedom of association and that workers and employers should be able to exercise their freedom of association rights in a climate of complete freedom and security from violence and threats. Furthermore, the Committee stresses the importance of ensuring that all instances of violence against trade union members, whether these be murders, disappearances or threats, are properly investigated and recalls that a situation, in which a large number of acts of violence against trade union members are not investigated, or that the investigations are not fully carried out, is a clear evidence of impunity preventing the free

exercise of trade union rights. ***The Committee requests the Government to provide its observations in its next report on the comments made by the ICFTU.***

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their own choosing. 1. In previous comments, the Committee had requested the Government to consider amending section 234(c) of the Labor Code, which requires, for registration of a trade union organization, the names of all its members comprising at least 20 per cent of all employees in a bargaining unit where it seeks to operate. The Committee notes the Government's statement that: (a) during the tripartite consultations of Department Order No. 40-03 (2003) the Department of Labor and Employment (DOLE), through the Bureau of Labor Relations (BLR), had recommended the removal of the 20 per cent requirement. However the said recommendation failed to garner support from the other sectors; (b) the DOLE also supports House Bill 1351, introduced on 13 July 2001, which seeks to remove the 20 per cent requirement. This bill was approved in second reading on June 8, 2005; and (c) the Congressional Oversight Committee on Labor and Employment (COCLE), sponsor of Senate Bill No. 2576 – actually retitled Bill No. 1049 – proposes the maintenance of the 20 per cent requirement, but only with respect to independent unions.

Under these circumstances the Committee requests the Government, as it had in previous comments, to consider, in the context of these ongoing amendments to the Labor Code (House Bill 1351), revising section 234(c) of the Labor Code so as to lower the minimum membership requirement for registration of a trade union and to indicate in its next report any measures adopted in this respect.

2. The Committee had previously requested the Government to amend sections 269 and 272(b) of the Labor Code, and section 2 of Rule II of Department Order No. 40-03, which prohibit aliens (other than those with valid permits if the same rights are guaranteed to Filipino workers in the country of the alien workers) from engaging in any trade union activity under penalty of deportation. The Committee notes the Government's statement that Rule II of Department Order No. 40-03 was amended by Department Order No. 40-C-05 of 2005. The latter provides that the right to establish and join organizations may be exercised by aliens with valid permits who are nationals of a country which grants the same or similar rights to Filipino workers, as certified by the Department of Foreign Affairs, or which has ratified either ILO Convention No. 87 or ILO Convention No. 98. The Committee observes that, although these measures imply a positive advance, the legislation still does not grant the right to organize to all nationals lawfully residing within the Philippines. The Committee further notes that sections 269 and 272(b) of the Labor Code have not been amended. In these circumstances, the Committee once again recalls that the right of workers, without distinction whatsoever, to establish and join organizations implies that anyone legally residing in the territory of a given State benefits from the trade union rights provided by the Convention, without any distinction based on nationality (see 1994 General Survey on freedom of association and collective bargaining, paragraph 63). ***The Committee requests the Government to amend the above-noted sections accordingly and to keep it informed in this regard.***

Articles 3 and 5. The Committee recalls that in previous comments it had requested the Government to:

- amend section 263(g) of the Labor Code so as to limit governmental intervention resulting in compulsory arbitration to the essential services only;
- amend sections 264(a) and 272(a) of the Labor Code, which provide for dismissal of trade union officers and penal liability to a maximum prison sentence of three years for participation in illegal strikes, so as to ensure that workers may effectively exercise their right to strike without the risk of being sanctioned in a disproportionate manner;
- lower the excessively high requirement of ten union members for federations or national unions set out in section 237(a) of the Labor Code, in order to ensure compliance with *Article 5* of the Convention;
- amend section 270, which subjects the receipt of foreign assistance to trade unions to the prior permission of the Secretary of Labor, so as to ensure compliance with *Article 5* of the Convention.

The Committee notes that the Government reiterates the information already provided in previous reports and refers to Senate Bill No. 1049 (formerly Senate Bill No. 2576), entitled “An Act Establishing the New Labor Code of the Philippines and for Other Purposes”, and that this Bill is pending before both the Committee on Labor, Employment and Human Resources Development and the Committee on Constitutional Amendments, Revision of Code and Laws. ***In these conditions, recalling that it had been commenting on these provisions of the legislation that are not in conformity with the Convention for several years, the Committee expresses the hope that the Government would take the necessary measures to amend the aforementioned legislative provisions and to inform it of the progress made in this respect in its next report.***

The Committee is raising other points in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1953)

The Committee notes the Government's report.

The Committee further notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 31 August 2005 and 10 August 2006, and the response of the Government to the first of these communications. These comments concern legislative issues raised by the Committee in its previous observation, as well as problems regarding the application of the Convention in practice, including anti-union dismissals.

1. *Article 1 of the Convention. Development of collective bargaining in the public sector.* The Committee notes the Government's indication that, under section 13 of Executive Order No. 180, only terms and conditions not otherwise fixed by law may be negotiated between public sector employees' organizations and the Government authorities. The Government further states that whereas such matters as the scheduling of vacation leave, the work assignment of pregnant women and recreational, social, athletic and cultural activities are negotiable, matters relating, inter alia, to wages and all other forms of pecuniary remuneration, retirement benefits, appointment, promotion, and disciplinary action are not. The Committee recalls in this connection that article 276 of the Labor Code provides that the terms and conditions of employment of all Government employees, including employees of government-owned and controlled corporations, shall be governed by the civil service law, rules and regulations, and that their salaries shall be standardized by the National Assembly as provided for in the new Constitution. The Committee notes, moreover, that the ICFTU confirms these restrictions of bargaining rights in the public sector. ***In these circumstances, while recalling that the Convention is compatible with systems requiring parliamentary approval of certain labour conditions or financial clauses of collective agreements, as long as the authorities respect the agreement adopted, the Committee once again recalls the importance of the development of collective bargaining in the public sector and repeats its firm hope that the Labor Code or other legislation would be adopted in the near future and that it will fully grant to public sector employees not engaged in the administration of the State the right to negotiate their terms and conditions of employment in accordance with Articles 4 and 6 of the Convention. It once again requests the Government to keep it informed of developments in this regard and provide copies of any legislation once adopted.***

2. *Comments of the ICFTU.* The Committee requests the Government to respond specifically to the ICFTU comments of 2006 on the application of the Convention, according to which: (1) an order promulgated in 2004 (the labour standards enforcement framework) essentially abandons the principle of government labour inspection for workplaces with more than 200 workers; (2) anti-union dismissals and acts of interference by employers are frequently committed in export processing zones and other sectors. The Committee also requests the Government to indicate the number of complaints of unfair practices concerning trade union rights, and to provide statistical information on the number of inspections on these matters undertaken in small enterprises.

Poland

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

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

The Committee further notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 31 August 2005 and 10 August 2006 alleging, among other issues, the denial of trade union rights to civil servants and limitations to the right to strike. The Committee notes the recent communication of the Government which replies to the ICFTU's comments. The Committee will examine the ICFTU's comments and the Government's reply at its next session.

Article 3 of the Convention. The Committee recalls that its previous comments concerned the following prohibitions imposed upon civil service employees and civil servants by the Law on Civil Service (1998): section 69(3), prohibition on participating in strikes or protest actions and section 69(4), prohibition on performing functions within trade unions.

The Committee notes the Government's statement that, on 22 July 2006, a new Law on Civil Service was adopted and that section 49(3) and (6) prohibits members of the civil service to participate in a strike or protest disrupting normal functioning of the office, as well as to fulfil trade union functions. These provisions are equivalent to the previous provisions contained in section 69(3) and (4) of the Law of 1998. Moreover, the Government indicates that, on 3 August 2006, the Senate of the Republic of Poland passed a resolution concerning the Law on Civil Service of 2006. This resolution seeks to amend new section 49(6) so as to provide that civil service officials may not fulfil trade union functions at the level higher than enterprise or inter-enterprise. The lower chamber of the Parliament will now decide whether to introduce the above amendment. The Committee recalls that the guarantees contained in the Convention apply to workers in the public services, including the right to perform trade union functions at all levels. ***The Committee therefore requests the Government to take the necessary measures so as to amend new section 49(3) of the Law on Civil Service so as to ensure that public servants may exercise their trade union functions at all levels and to keep it informed in this respect.***

As concerns the right to strike, the Committee considers that any prohibition of the right to strike in the public services should be limited to public servants exercising authority in the name of the State. The Committee recalls, however, that such workers lose an essential means of defending their interests and thus should be afforded appropriate guarantees to compensate for this restriction, for example, conciliation and mediation procedures, leading, in the event of deadlock, to arbitration machinery acceptable to the parties concerned. It is essential that the workers be able to participate in determining and implementing the procedure, which should furthermore provide sufficient guarantees of impartiality and rapidity; arbitration awards should be binding on both parties and, once issued, should be implemented rapidly and completely (see 1994 General Survey on freedom of association and collective bargaining, paragraphs 158 and 164). ***Therefore, the Committee requests the Government to take the necessary measures to amend the Law on Civil Service so as to ensure that prohibition of the right to strike is limited only to public servants exercising authority in the name***

of the State and to keep it informed in this respect. It furthermore requests the Government to provide in its next report information on the compensatory guarantees available to the civil service corps employees whose right to strike under the Convention may be restricted.

Trade union assets. The Committee regrets that the Government provided no information as to the proceedings before the Social Revendication Commission and the administrative courts concerning trade union assets. *The Committee once again requests the Government to keep it informed of further developments in this regard.*

Portugal

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1977)

The Committee notes the Government's report. The Committee also notes the comments of the Confederation of Portuguese Industry (CIP) of 31 May 2006, the Portuguese Confederation of Tourism (CPT) of 7 July 2006 and the General Union of Workers (UGT) of 7 July 2006 on the application of the Convention.

The Committee recalls that in its previous comments it noted that the General Confederation of Portuguese Workers (CGTP) had raised objections to certain provisions in the regulations of the new Labour Code respecting the election of workers' representatives in the field of occupational safety, health and hygiene which, in its view, were contrary to the right to organize freely. Following an examination of the regulations, the Committee observes that trade unions may promote the election of such representatives.

With regard to the fact that the legislation refers by name to the trade union organizations that are to be members of the Economic and Social Council (CES) and the Permanent Commission for Social Partnership (CPCS), which implies that certain organizations considering themselves to be representative are not included in those bodies, the Committee is addressing these issues in the context of its observation on Convention No. 98.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1964)

The Committee notes the Government's report. The Committee also notes the comments made by the Confederation of Portuguese Industry on 31 May 2006 (with reference to Act No. 9 of 20 March 2006 limiting compulsory arbitration), the General Union of Workers (UGT) of 7 July 2006 and the Portuguese Confederation of Tourism of 7 July 2006 on the application of the Convention, and the Government's reply to these comments.

1. *Article 4 of the Convention. Compulsory arbitration.* The Committee recalls that in its previous observation it referred to the new Labour Code which, in section 567, provides that "in disputes arising from the conclusion or revision of a collective labour agreement, recourse to arbitration may be compulsory where, after protracted and fruitless negotiations and the after the conciliation and mediation procedures have been exhausted, the parties do not agree, within two further months after such procedures, to refer the dispute to voluntary arbitration". The Committee notes that, according to the Government, section 1 of Amendment Act No. 9/2006 provides that compulsory arbitration shall be admissible:

- (a) where one of the parties so requests; and, after hearing the Permanent Commission for Social Partnership, following lengthy and fruitless negotiations, after the breakdown of conciliation and mediation, where it has not been possible to resolve the dispute through voluntary arbitration, or due to the improper conduct of one of the parties;
- (b) following a majority vote by the representatives of the employers and the workers in the Permanent Commission for Social Partnership; or
- (c) at the initiative of the minister responsible for labour matters; after hearing the Permanent Commission for Social Partnership where essential services protecting the life, health and personal safety of the whole or part of the population are affected.

The Government adds that sections 429 and 430 of the Regulations of the Labour Code provide that the arbitration board shall gather together the parties before issuing an award with a view to endeavouring to help them reach an agreement and that up to now there have not been cases in which the parties have had recourse to compulsory arbitration.

In this respect, the Committee notes the statements made by the Government and observes that the Amendment Act constitutes progress towards greater conformity with the Convention. Nevertheless, the Committee considers that the hypothesis envisaged in subsection (b) of section 1 of the Amendment Act should be repealed, as in many cases it would mean that the decision to impose compulsory arbitration in a dispute would be taken by employers' and workers' organizations that are not parties to the dispute. *The Committee requests the Government to provide in its next report any cases in which compulsory arbitration has been imposed by the authorities, with an indication of their circumstances.*

The Committee welcomes the conclusion in January 2005 of an agreement by the social partners who are members of the Permanent Commission for Social Partnership to promote collective bargaining.

2. *Representativity of organizations.* The Committee notes the conclusions of the Committee on Freedom of Association in Case No. 2334 concerning the reference by name in the legislation to the trade union organizations members of the Economic and Social Council (CES) and the Permanent Commission for Social Partnership (CPCS), which implies that certain organizations that consider themselves to be representative are not included on these bodies, and the absence from the national legislation of objective criteria to determine the representativity of employers' and workers' organizations. ***In this respect, the Committee requests the Government, in consultation with the most representative organizations of employers and workers, to determine and establish objective, precise and predetermined criteria to evaluate the representativity and independence of employers' and workers' organizations and to amend the legislation so that it does not refer by name to the workers' organizations which are to be members of the Economic and Social Council (CES) and the Permanent Commission for Social Partnership (CPCS). The Committee requests the Government to keep it informed of any legislative development in this respect.***

The Committee is addressing a request directly to the Government on other matters.

Romania

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

The Committee notes the Government's report and its reply to the comments made by the National Confederation of Trade Unions (CARTEL ALFA), the National Trade Union Bloc (BSN) and the Democratic Confederation of Trade Unions of Romania (CSDR), received on 7 June 2006, and by the World Confederation of Labour (WCL), dated 3 November 2005. The Committee also notes the comments made by the International Confederation of Free Trade Unions (ICFTU), dated 10 August 2006, concerning matters already raised by the Committee, and the comments provided by the WCL on 6 September 2006 on the application of the Convention. ***The Committee requests the Government to reply to the comments of the ICFTU and the WCL.***

Article 3 of the Convention. Right of workers' organizations to organize their administration and activities and to formulate their programmes. The Committee recalls that its comments of the past several years, as well as those of the WCL of 31 August 2005, have referred to sections 55, 56 and 62 of Act No. 168/1999 on the settlement of labour disputes. Under section 55 of the Act, the management of a production unit may demand the suspension of a strike, for a maximum period of 30 days, if it endangers the life or health of individuals, and an irrevocable decision may be taken in this respect by the Court of Appeal under the terms of section 56. With regard to section 62, the management of a production unit may submit a dispute to an arbitration commission in the event that a strike has lasted for 20 days without any agreement being reached between the parties and its continuation would affect humanitarian interests. With regard to the suspension of a strike under sections 55 and 56 and the ending of strike under sections 58-60, the Committee requested the Government in its 2004 observation to provide detailed information on the application of these provisions in practice and, in particular, to indicate whether they are frequently invoked by the management of a production unit, and to provide copies of decisions handed down under these provisions. With regard to section 62, the Committee requested the Government to repeal the provision so as to fully guarantee the right of workers' organizations to engage in industrial action to defend and further the occupational interests of their members.

With regard to the application of sections 58-60, the Committee notes the Government's indications that the court has established a time limit for dealing with an application to bring a strike to an end, which may be no longer than three days after it was lodged, and that it calls the parties to a hearing. The court examines the application to bring the strike to an end and issues an urgent ruling in which, after examining the case, it either sets aside the application by the enterprise or upholds the application and orders the strike to end on the grounds that it is unlawful. The Government indicates that Act No. 168/1999 provides in section 54(1) that participation in the strike or the organization of a strike, in compliance with the provisions of the law, is not a violation of the work duties of employed persons and cannot have negative consequences for those on strike or for the organizers. ***The Committee once again requests the Government to provide copies of the decisions handed down under these provisions with its next report.***

In relation to section 62, the Government describes the content of the section and indicates that two conditions have to be fulfilled simultaneously for the management of an enterprise to be able to request arbitration, and that one of these conditions relates to aspects of a humanitarian nature. According to the Government, measures adopted to protect humanitarian interests cannot be considered as a restriction on the right to strike. ***The Committee recalls that compulsory arbitration to end a collective labour dispute is acceptable if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted, even banned, for example in the case of disputes in the public service involving public servants exercising authority in the name of the State or in essential services in the strict sense of the term, namely those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, and it requests the Government to adopt measures to ensure that the legislation is in compliance with the Convention in this respect.***

Finally, the Committee notes the comments made by CARTEL ALFA, the BSN and the CSDR to the effect that, as a result of internal rules adopted by the Ministry of Labour, Solidarity and the Family, regional labour offices no longer register applications for conciliation submitted by trade unions as a consequence of a refusal by the employer to accept the

workers' claims in relation to the mandatory annual negotiations on wages, hours of work, the work programme and working conditions. CARTEL ALFA, the BSN and the CSDR recall that the conciliation phase is compulsory before calling a strike under the terms of Act No. 168/1999. They allege that the reasons given by labour officials relate in most cases to internal decisions of the Ministry of Labour or an incorrect interpretation of the Act, which considers this type of dispute as consisting of conflicts of rights (rather than conflicts of interests), which lie within the competence of the courts. The Committee notes the Government's indications that: (1) the Ministry of Labour has not issued any internal written or verbal instruction to labour directorates not to register conflicts of interests; (2) the Ministry of Labour, through its territorial branches, has registered disputes which, in accordance with section 12, constitute conflicts of interests and has designated delegates for the conciliation of these labour disputes; (3) the Ministry of Labour has also registered as conflicts of interest the situations indicated in section 12(d) as exceptions. The Committee further notes the Government's indication that the trade union organizations have not lodged a complaint with the relevant judicial bodies. The Committee notes this information.

The Committee notes Act No. 371/2005 of 13 December 2005 approving Ordinance No. 65/2005 issuing amendments and supplementing Act No. 53/2003 issuing the Labour Code and Act No. 251/2006 of 22 June 2006 issuing amendments and supplementing Act No. 188/1999 on the conditions of service of public officials. The Committee will examine these texts when the translation has been received.

The Committee is also raising other matters relating to the new Act on trade unions in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1958)***

The Committee notes the Government's report. It also notes the observations of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU).

In earlier comments, the Committee noted the adoption of Act No. 429/2003 amending the Constitution, Act No. 53/2003 on the new Labour Code and the new Act on trade unions, No. 54/2003. The Committee noted that Act No. 188/1999 on civil servants has been amended by Act No. 251/2004 and Act No. 251/2006 of 22 June 2006. From the information supplied by the Government, it notes that the new "social stability pact, 2004" concluded by the social partners, provides for resumption of the discussions on the law governing labour disputes and that governing labour courts. ***The Committee requests the Government to inform it of any developments in these matters.***

Articles 2 and 3 of the Convention. The Committee noted in earlier comments that section 221(2) of Act No. 53/2003 prohibits any interference by the employer or by employers' organizations, either directly or through their representatives or members, in the establishment of trade unions or in the exercise of trade union rights. Act No. 54/2003 provides for similar protection. Section 235(3) of Act No. 53/2003 prohibits any interference by employees or trade unions, either directly or through trade union representatives or members, in the establishment of employers' organizations or the exercise of their rights. ***The Committee again asks the Government to indicate the penalties for acts of interference.***

Article 6. Public servants. The Committee observes that Act No. 188/1999 on civil servants was amended by Act No. 251/2004. In its report, the Government indicates that civil servants may form organizations, join them and perform any kind of duty in them. They have the right to associate in occupational organizations or any other type of organization the aim of which is to represent their own interests, promote vocational training and protect their status. Concerning Act No. 251/2006 of 22 June 2006 amending and supplementing Act No. 188/1999 on the status of civil servants, and is waiting for it to be translated and will therefore wait for the translation before expressing its views on any particular issues relating to the Convention. It notes the ICFTU's assertion that public employees may bargain for everything except salaries, which are set by the Government. The Committee reminds the Government that restrictions of this kind on collective bargaining are contrary to the Convention. ***It requests the Government to send its comments on the ICFTU's observations and to send to the ILO, in one of its working languages, the text of the provisions that govern collective bargaining for public employees and officials not engaged in the administration of the State, together with information on collective agreements concluded in the public sector in the last three years.***

Russian Federation

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee notes with regret that the Government's report has not been received. It further notes the conclusions and recommendations of the Committee on Freedom of Association in Cases Nos. 2216 and 2251, which referred the legislative aspects of these cases to the Committee of Experts (see 340th Report, March 2006).

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, which concern restrictions imposed on the right to strike and the alleged violation of trade union rights afforded by the Convention in practice. ***The Committee requests the Government to provide its observations thereon.***

The Committee recalls that in its previous observations it had requested the Government to ensure that the drafted amendments to the Labour Code take into account the Committee's previous requests to modify the following sections of the Labour Code or other legislative texts so as to bring them into conformity with *Article 3 of the Convention*:

- section 410 of the Labour Code (providing that a minimum of two-thirds of the total number of workers of an enterprise should be present at the meeting and that the decision to stage a strike should be taken by at least half of the delegates present), so as to lower the quorum for a strike ballot, which the Committee considered too high and likely to impede recourse to industrial action, particularly in large enterprises;
- section 410 of the Labour Code, so as to repeal the obligation to indicate the duration of a strike;
- section 412 of the Labour Code, so as to ensure that any disagreement concerning minimum services in organizations responsible for safety, health and life of people and vital interests of society, where the minimum services must be ensured during a strike, is settled by an independent body having the confidence of all parties to the dispute and not the executive body;
- section 413 of the Labour Code, so as to ensure that, when a strike is prohibited, any disagreement concerning a collective dispute is settled by an independent body and not by the Government; and
- section 11 of the Law on Fundamentals of State Employment and the relevant section of the Law on the Federal Railway Transport, so as to ensure that railroad employees, as well as those engaged in the public service, who are not exercising authority in the name of the State, enjoy the right to strike.

The Committee regrets that several of its recommendations were not reflected in the amended Labour Code. Indeed, only section 410 of the Labour Code was amended so as to lower the quorum for adopting a decision to strike. It appears that, according to the new wording of this section, a workers' assembly shall be deemed competent if at least half of the total workforce is present. ***The Committee requests the Government to provide a copy of the Law amending the Labour Code. Hoping that further legislative reform will take into account its previous requests, the Committee requests the Government to keep it informed of any further developments in this respect.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1956)***

The Committee notes that the Government's report has not been received. It further notes the conclusions and recommendations of the Committee on Freedom of Association in Cases Nos. 2216 and 2251 (see 340th Report, March 2006).

The Committee notes the comments on the application of the Convention submitted by the International Confederation of Free Trade Unions (ICFTU) in its communication dated 10 August 2006, which concern several cases of anti-union discrimination, acts of interference by employers in trade union activities and violations of collective bargaining rights. ***The Committee requests the Government to provide its observations thereon.***

The Committee recalls that it had previously requested the Government:

- to specify the concrete sanctions imposed on employers found guilty of anti-union discrimination and to mention the relevant provisions;
- to specify the sanctions imposed on those found guilty of acts of interference by workers' or employers' organizations or their agents in each other's affairs, particularly their establishing, functioning and administration of their organizations, and to indicate the relevant legislative provisions;
- to amend section 31 so as to ensure that it is clear that it is only in the event where there are no trade unions at the workplace that an authorization to bargain collectively can be conferred to other representative bodies;
- to take the necessary measures so as to ensure that the legislation provides for a possibility to conclude an agreement at the occupational or professional level;
- to provide further information on the practical application of sections 402 and 403 of the Labour Code and 6(7) of the Law on Collective Labour Disputes, which seem to impose compulsory arbitration;
- to provide examples of collective agreements applicable to civil servants and civil employees of military service and the system of execution of penal sentences.

The Committee hopes that the Government's next report will contain precise information on the above issues.

The Committee regrets that section 31 of the Labour Code, according to which when the trade union represents less than half of the workers at the enterprise, other representatives could represent workers' interests in collective bargaining, was not amended under the Federal Act. ***It requests the Government to provide a copy of the Federal Act amending the Labour Code. Hoping that further legislative reform will take into account previous requests of the Committee, it asks the Government to keep it informed of any further developments in this respect.***

Rwanda

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1988)

The Committee notes the Government's report. It notes that a draft amendment of the Labour Code is in process but has not yet been sent to the Office. It also notes the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) referring to matters already raised by the Committee concerning the status of public servants and the exercise of the right to strike in essential services. In this respect, the Government indicates that the ICFTU's comments are welcomed and that it will take them into account when it will elaborate projects for decrees on the application of the modified Labour Code.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish organizations of their own choosing. In its previous comments, the Committee noted: (1) that articles 11, 33, 35, 36, 38 and 39 of the Constitution of 4 June 2003 guarantee freedom of expression and association for state employees as for all other citizens; (2) that, although Act No. 22/2002 of 9 July 2002 issuing the general conditions of service of the public service in Rwanda says nothing about the right of public servants to organize and to collective bargaining, section 73 of the Act providing that public servants and the staff of public enterprises enjoy rights and freedoms on the same basis as other citizens, allows the interference that public servants have the right to establish occupational organizations in the same way as private sector employees; (3) that, although there are unions of public servants in Rwanda, there is a legal void as regards the right to organize of public servants, which is liable to cause problems in practice; and (4) the procedures for the implementation of section 73 of Act No. 22/2002 are still to be determined and that application of the provisions of Title VIII of the Labour Code governing occupational organizations should be extended to state officials. The Committee notes the declaration of the Government that it is not its intention to restrict the right of association of officials. In this respect, the Government underlines that section 2(2) provides that "Any person covered by the status of a public administration is not covered by the present Code, with the exception of matters decided upon by a decree from the Prime Minister." The Government further states this is why the Prime Minister's decree on the application of the Labour Code will soon extend to modalities concerning unionization, claims and collective bargaining to public servants. ***The Committee requests the Government to keep it informed of any progress made in this respect in its next report.***

Article 3. Right to strike. The Committee asked the Government to provide a copy of the Ministry of Labour Order establishing procedures for the implementation of section 191 of the Labour Code which provides that the right to strike of workers in jobs that are essential to the security of persons and property, and in jobs the halting of which would jeopardize human safety and life, is exercised in accordance with specific procedures. The Committee noted in this connection that, according to the Government, no procedures had yet been established for implementing this provision. ***The Committee requests the Government to keep it informed of the steps taken or envisaged on this matter in the context of the current revision of the Labour Code.***

The Committee is addressing a request on other matters directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1988)

The Committee notes the Government's report. It also notes the observations of the International Confederation of Free Trade Unions (ICFTU), dated 10 August 2006, reporting acts of anti-union discrimination, and particularly cases of the arrest and abusive dismissal of trade union leaders. ***The Committee requests the Government to reply to these comments in its next report.***

Articles 1, 2 and 3 of the Convention. The Committee noted previously that, according to the Association of Christian Trade Unions (ASC/UMURIMO) and the Confederation of Trade Unions of Rwanda (CESTRAR), the new Labour Code does not establish penalties for acts of anti-union discrimination, even though the exercise of the right to organize is in general terms protected by section 159 of the Labour Code.

The Committee notes that the Government refers in its report to the applicable sanctions in cases of anti-union discrimination against trade union delegates.

The Committee also noted that, according to the Congress of Labour and Fraternity in Rwanda (COTRAF-RWANDA), there were still no adequate protection measures against acts of interference by employers in relation to workers' organizations, particularly with regard to their operation and establishment in enterprises and establishments.

The Committee recalls that legislation should make express provision for rapid appeal procedures, coupled with effective and dissuasive sanctions against acts of interference (see the 1994 General Survey on freedom of association and collective bargaining, paragraph 232) and anti-union discrimination. ***The Committee requests the Government to take the necessary measures to prohibit any act of interference by workers' and employers' organizations in each others' affairs, and any act of anti-union discrimination, and to adopt dissuasive penalties applicable to all workers, not solely trade union delegates, towards this end. The Committee further requests the Government to ensure that the above protections are reflected in the draft Labour Code the Government refers to in its report.***

Article 4. 1. In its previous comments, the Committee requested the Government to adopt measures to encourage and promote the widest possible use of voluntary negotiation procedures and of collective agreements in the country. In this respect, it noted the comment by CESTRAR that no collective agreement had been concluded due to the lack of measures to encourage and promote collective bargaining. The Committee notes the draft Presidential Order establishing the National Labour Council, and the holding of training seminars on negotiating techniques for the social partners, labour inspectors and labour administration officials. ***The Committee requests the Government to continue its efforts to adopt measures to encourage and promote the conclusion of collective agreements and to keep it informed in this respect.***

2. With regard to the explanations that it had requested previously concerning collective disputes and, more particularly, section 183 of the Labour Code, the Committee noted the Government's observation that a collective labour dispute in the context of collective bargaining may be submitted by both parties or by either of them to the competent legal authority, whose decisions are enforceable. The Committee notes that it has not received the draft Ministerial Decree on the application of section 183 of the Labour Code, referred to by the Government in its report. ***It asks the Government to transmit a copy of the draft Ministerial Decree with its next report.*** The Committee recalls that, with the exception of public servants engaged in the administration of the State and essential services in the strict meaning of the term, arbitration imposed by the authorities at the request of one party is generally contrary to the principle of the voluntary negotiation of collective agreements established by the Convention, and therefore the autonomy of the bargaining partners (see General Survey, op. cit., paragraph 257). ***It therefore requests the Government to amend section 183 of the Labour Code so that a collective labour dispute in the context of collective bargaining may be submitted to the competent legal authority only with the agreement of both parties.***

Article 6. The Committee also requested the Government to indicate which public workers were covered by the exception laid down in section 114(4) of the Labour Code, which provides that collective agreements may be concluded where the staff of public enterprises and establishments are not governed by a specific legal or regulatory status. The Committee noted the information provided by the Government to the effect that the distinction laid down in section 114 of the Labour Code no longer applied since all public officials were now governed by Act No. 22/2002 of 9 July 2002 issuing the conditions of service of public servants in Rwanda. The Committee however noted that Act No. 22/2002 does not contain any provisions relating to the right to collective bargaining. The Committee notes the indications in the Government's report, according to which no limitations exist in the Labour Code with regards to the fundamental rights of public servants, and that the draft Labour Code extends the right to collective bargaining to public servants.

The Committee recalled the distinction that must be drawn between, on the one hand, public servants who by their functions are directly engaged in the administration of the State (for example, civil servants employed in government ministries and other comparable bodies, as well as their auxiliary staff), who may be excluded from the scope of the Convention and, on the other hand, all other persons employed by the Government, by public enterprises or by autonomous public institutions, who should benefit from the guarantees provided for in the Convention (see General Survey, op. cit., paragraph 200). ***The Committee therefore once again requests the Government to amend section 114 of the Labour Code so that the exclusions from the scope of the Labour Code respecting the conclusion of collective agreements does not include categories of public servants who are not engaged in the administration of the State.***

The Committee hopes that the Government's next report will allow it to note substantial progress on the various matters raised above.

Sao Tome and Principe

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1992)

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 observed that the World Confederation of Labour (WCL) and the General Union of Workers of Sao Tome and Principe (UGT-STP) sent comments on the application of the Convention. ***The Committee requests that the Government send its observations in this regard.***

The Committee recalled that for many years it has been making comments on the need for the Government to take steps to amend the following provisions of Act No. 4/92 which refer to the following issues:

- the majority required for calling a strike is too high (section 4 of Act No. 4/92);
- with regard to minimum services, it is important, in the event of disagreement in determining such services, that the matter be settled by an independent body and not by the employer (paragraph 4 of section 10 of Act No. 4/92);
- the hiring of workers to perform essential services in order to maintain the economic and financial viability of the enterprise should it be seriously threatened by a strike (section 9 of Act No. 4/92);
- compulsory arbitration for services which are not deemed essential (postal, banking and loans services) (section 11 of Act No. 4/92).

The Committee reiterates its request to the Government to take steps to amend the above legislative provisions, in order to bring the legislation into conformity with the Convention and to inform it in its next report of any measures adopted in this regard.

Finally, the Committee once again asks the Government to state whether public employees have the right to organize and to indicate the applicable legislation in this matter and whether federations and confederations are able to exercise the right to strike.

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

Senegal

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the Government's report and its reply to the comments of the International Confederation of Free Trade Unions (ICFTU), dated 31 August 2005.

The Committee also notes the comments by the ICFTU on 10 August 2006, as well as the comments made by the National Confederation of Employers of Senegal (CNES), the National Confederation of Workers of Senegal (CNTS) and the National Federation of Independent Unions of Senegal (UNSAS), forwarded by the Government on 26 October 2006. These refer to issues of a legislative nature and relating to the application of the Convention in practice which have already been raised by the Committee. The ICFTU also emphasizes that workers in the agricultural sector and the informal economy are not covered by the Labour Code, including in relation to their trade union rights, and that striking workers in the mining and cement industries have been subject to reprisals. ***The Committee requests the Government to provide its observations on this subject in its next report.***

Article 2 of the Convention. Trade union rights of minors. The Committee has been emphasizing for several years that section L.11 of the Labour Code (as amended in 1997), which provides that minors over 16 years of age may join trade unions unless their membership is opposed by their father, mother or guardian, is not in conformity with *Article 2* of the Convention.

The Government states in its report that such a measure is only intended to protect young workers under 18 years of age against possible abuses or denial of rights by the trade union, but that every effort will be made to amend the national legislation in accordance with the provisions of the Convention. ***Recalling that the objective of workers' organizations is to defend the interests of their members, the Committee notes this information and requests the Government to keep it informed of any measure adopted or envisaged to guarantee the right to organize of minors who have access to the labour market, both as workers and as apprentices, without parental authorization being necessary.***

Articles 2, 5 and 6. Right of workers to establish organizations of their own choosing without previous authorization. With reference to its previous comments concerning the need to repeal Act No. 76-28 of 6 April 1976 and to amend section L.8 of the Labour Code (as amended in 1997) so as to guarantee workers and workers' organizations the right to establish organizations of their own choosing without previous authorization, the Committee notes that, according to the Government, governmental authorization is not intended to restrict the right to organize, but only to allow the State to exercise control over the morality and capacity of persons responsible for the direction and administration of a trade union, and to obtain precise statistics on the number of trade unions that exist. The Government adds that, if the receipt attesting to the legal existence of a trade union were to be refused, such refusal would be based solely on the morality and legal capacity of the leaders of the trade union, and not on other grounds. The Government nevertheless states that it is examining how to amend the Labour Code and repeal any provisions of laws or regulations that are contrary to the Convention as soon as possible. ***The Committee expresses the firm hope that the Government will take action to repeal legislative provisions that restrain workers' freedom to form their own organizations, especially provisions directed at the morality and capacity of workers' representatives. It asks the Government to keep it informed of any amendment to the legislation adopted in this respect.***

Article 3. Requisitioning. The Committee has been emphasizing for several years that section L.276 grants the administrative authorities broad powers to requisition workers in private enterprises and public services and establishments who occupy posts considered to be essential for the security of persons and property, the maintenance of public order, the continuity of public services or the satisfaction of the country's essential needs. The Committee emphasizes that on many occasions it has recalled that recourse to this type of measure should be limited exclusively to the maintenance of essential services in the strict sense of the term (those the interruption of which would endanger the life, safety or health of the whole or part of the population), public servants exercising authority in the name of the State or acute national crises. In this respect, the Committee asked the Government to provide the decree implementing section L.276, which contains a list of essential services, so that it can ensure that it is consistent with the provisions of the Convention.

The Committee notes from the information provided by the Government that the decree implementing section L.276 has not yet been adopted and that Decree No. 72-017 of 11 January 1972 determining the list of posts, jobs and functions in which the occupants may be requisitioned continues to be applied under section L.288 of the Labour Code. According to the Government, those subject to requisitioning include both workers in the public and private sectors engaged in jobs that are indispensable for the security of persons and property, the maintenance of public order, the continuity of public services and the satisfaction of the country's essential needs. However, the Committee notes that this Decree provides for

the requisitioning of workers in the event of a strike in relation to many posts, jobs and functions to which the definition of essential services in the strict sense of the term (those the interruption of which would endanger the life, personal safety or health of the whole or part of the population) does not apply. ***Considering under these conditions that recourse to the replacement of striking workers is a serious violation of the right to strike and prevents the free exercise of trade union rights, the Committee asks the Government to take the necessary measures to ensure that the decree implementing section L.276 of the Labour Code only authorizes the requisitioning of workers to ensure the operation of essential services in the strict sense of the term.***

The Committee also noted in its previous comments that, under the terms of section L.276 *in fine*, workplaces or their immediate surroundings may not be occupied during a strike under penalty of the sanctions established in sections L.275 and L.279. The Committee notes that, according to the Government, the provisions relating to the prohibition upon occupying workplaces and their immediate surroundings are only intended to ensure public security in the event of strikes that are not peaceful. ***While noting this information, the Committee considers that it would be preferable to include an explicit provision, in a law or regulation, establishing that the restrictions envisaged in section L.276 in fine only apply in the event that strikes are no longer peaceful.***

Article 4. Dissolution by administrative authority. Finally, the Committee has pointed out for several years the need to amend the national legislation to protect trade union organizations against dissolution by administrative authority (Act No. 65-40 of 22 May 1965), as required by *Article 4* of the Convention. The Committee noted that section L.287 of the Labour Code did not explicitly repeal the 1965 provisions on administrative dissolution. The Committee notes the information provided by the Government to the effect that it is examining how to amend or supplement the Labour Code with a view to including in the national legislation an explicit provision establishing that the dissolution of seditious associations, as envisaged by Act No. 65-40, may in no event be applied to occupational trade union organizations. ***The Committee requests the Government to keep it informed of any amendment to the legislation adopted in this respect.***

The Committee once again expresses the firm hope that the necessary steps will be taken in the very near future to ensure that full effect is given to the provisions of the Convention and it requests the Government to keep it informed on this matter.

Serbia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

The Committee notes the Government's report and the comments submitted by the Association of Teachers' Unions of Serbia (USPRS) and the International Confederation of Free Trade Unions (ICFTU) on 13 July and 10 August 2006, respectively, concerning issues previously raised by the Committee. The ICFTU also alleges physical assault against union delegates. ***The Committee requests the Government to provide its observations thereon.*** The Committee takes due note of the new Labour Law of 2005.

Article 2 of the Convention. Right of employers' and workers' to establish and join organizations of their own choosing without previous authorization. Registration requirements. Minimum membership requirement for employers' organizations. The Committee had previously commented upon section 216 of the Labour Law, which provides that employers' associations may be established by employers that employ no less than 5 per cent of the total number of employees in a certain branch, group, subgroup, line of business or territory of a certain territorial unit, and had asked the Government to amend that section so as to establish a reasonable minimum membership requirement. In this respect, the Committee notes that the Government indicates that employers' organizations may be established at the level of the Republic or within a branch, group, subgroup, or line of activity, so that the requirement of employing 5 per cent of the total employees could, depending on the level at which an employer's organization wished to be established, be easily met – particularly if the total number of employees at that particular level was a fairly low figure. In this respect, the Committee is of the view that the 5 per cent requirement at all levels contained in section 216 of the Labour Law may hinder the establishment of employers' organizations. ***In these circumstances, the Committee once again requests the Government to take measures to amend section 216 of the Labour Law so as to establish a reasonable minimum membership requirement and keep it informed in this respect.***

The Committee is raising other points in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

The Committee notes the Government's report.

1. ***Comments of the International Confederation of Free Trade Unions (ICFTU).*** The Committee further notes the observations submitted by the ICFTU in its communication dated 10 August 2006, concerning the Labour Law of 2005 and alleging cases of anti-union discrimination against leaders and members of the UGS Nezavisnost trade union and denial of collective bargaining rights. The Committee recalls that in its previous observations it had requested the Government to provide information on measures taken to investigate the allegation of anti-union discrimination against

members and officials of the Nezavisnost national trade union centre submitted by the ICFTU. ***The Committee requests the Government to communicate its observations on the above ICFTU comments, as well as on the outcome of the investigations into all alleged cases of anti-union discrimination.***

2. *Article 4 of the Convention. Representativeness of workers' and employers' organizations.* In its previous observation, the Committee had requested the Government to indicate whether appeals can be brought before the courts against the Minister's decision on the issue of the representativeness of employers' and workers' organizations. The Committee notes with interest the Government's indication that section 231(4) of the new Labour Law allows for an appeal against the decision of the Minister to the Supreme Court.

The Committee regrets that the Government provides no information in respect of its previous request to amend section 233 of the Labour Law so as to ensure that workers' and employers' organizations which previously failed to obtain recognition, or a new organization, may request a new decision on the issue of representativeness after a reasonable period has elapsed, and may do so sufficiently in advance of the expiration of the applicable collective agreement. The Committee notes that the Serbian and Montenegrin Employers' Association (UPSCG) has criticized this provision in its communication of 7 April 2005. The Committee once again points out that a time period of three years before another organization could seek recognition as the most representative, imposed by section 233, is an excessively long period of time. ***It once again requests the Government to take the necessary measures so as to amend this legislative provision. The Committee requests the Government to keep it informed of the measures taken or envisaged in this respect.***

The Committee recalls that in its previous observations, it had requested the Government to lift the 10 per cent requirement for employers' organizations to engage in collective bargaining. The Committee notes that section 222 of the Labour Code (2005) still requires employers' associations to represent 10 per cent of the total number of employers and employ 15 per cent of the total number of employees for exercising collective bargaining rights. While noting the Government's statement that, according to section 249, if no employers' association fulfils the representativeness criteria, an association agreement might be concluded with a trade union for participation in the collective agreement, the Committee observes that the UPSCG has criticized these provisions. The Committee considers that these two provisions combined together unduly generate confusion and could obstruct collective bargaining. ***The Committee therefore requests the Government to indicate in its next report the measures taken or envisaged to lower the mentioned percentage requirements, which it considers excessively high.***

The Committee expresses the hope that the Government will take the necessary measures without delay in order to bring the legislation into conformity with the requirements of the Convention and requests the Government to keep it informed in this respect.

Seychelles

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1978)

The Committee notes the information provided in the Government's report.

For many years the Committee's comments have focused on the following points:

- section 9(1)(b) and (f) of the 1993 Industrial Relations Act conferring to the registrar discretionary power to refuse registration;
- section 52(1)(a)(iv) stipulates that a strike has to be approved by two-thirds of union members present and voting at the meeting called for the purpose of considering the issue;
- section 52(4) allows the Minister to declare a strike to be unlawful if he is of the opinion that its continuance would endanger, amongst other things, "public order or the national economy";
- section 52(1)(b) provides for a cooling-off period of 60 days before a strike may begin; and
- certain prohibitions of, or restrictions on, the right to strike which may or may not be in conformity with the principles of freedom of association, sometimes provide for civil or penal sanctions against strikers and trade unions that have violated these provisions.

The Committee notes the Government's indication that the Industrial Relations Act of 1993 was reviewed in 1994 in light of the Committee's observations and that, as a result, provision 9(1)(b) was repealed. In this respect, the Committee observes that the 1994 amendment of the Industrial Relations Act refers to section 9(1)(e) and not 9(1)(b). Moreover, the Committee notes the Government's indication that there has been no instance where a trade union has been refused registration under provision 9(1)(b).

The Committee further notes the Government's indication that section 9(1)(f) and a few other provisions commented upon by the Office fall short of the Convention's requirements and that, as a result, the Employment Department in the Ministry of Economic Planning and Employment has started to undertake consultations with social partners and other stakeholders on the matter. The Committee notes the Government's indication that it has already expressed its desire to avail itself of the technical assistance of the Office towards bringing the Industrial Relations Act into conformity with Convention No. 87. The Committee notes the Government's statement to the effect that draft legislation is being prepared

and will be sent to the Office in the not too distant future. *The Committee expresses the hope that this draft legislation will take into account previous comments by the Committee and requests the Government to keep it informed of any progress in this respect.*

Sierra Leone

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (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:

Articles 1 and 2 of the Convention. Need to adopt specific provisions accompanied by sufficiently effective and dissuasive sanctions for the protection of workers and workers' organizations against acts of anti-union discrimination and acts of interference. The Committee had previously noted that the revision of the labour laws, prepared with ILO technical assistance, had already been submitted to tripartite meetings, that the comments of the tripartite body had been received and that the document had just been forwarded to the Law Officers' Department. The Committee had asked the Government to keep it informed of any further progress made in the preparation of the final draft document and to provide a copy of the revised legislation as soon as it had been adopted. Noting that according to the information previously sent by the Government, the revision of the labour laws was submitted to the Law Officers' Department in 1995, the Committee requests the Government once again to make every effort to take the necessary action for the adoption of the new legislation in the very near future and to keep it informed in this regard.

Article 4. The Committee requested the Government in its previous observation to provide information on any collective agreements covering teachers that had been concluded. The Committee notes the Government's indication in a previous report that the Sierra Leone Teachers' Union has been conducting free and voluntary negotiation with employers under the trade group negotiation councils established by law to fix better terms and conditions of employment for the workers. The Committee requests the Government to provide detailed information on the collective agreements in force in this sector.

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

Slovakia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1993)

The Committee takes note of the comments made by the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, alleging that bargaining rights were weakened by provisions which state that higher level collective agreements (covering a whole industry, sector or region) only apply to those employers who specifically agree to them in writing. *The Committee requests the Government to send its comments on this issue raised by the ICFTU.*

South Africa

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee notes the Government's report.

The Committee also notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, which refer in particular to acts of violence and arrests during the course of strikes and demonstrations, as well as massive dismissals of strikers in various sectors (truckers, toll operators, metalworkers, teachers, rural workers, public sector, etc.) in 2005. *The Committee expresses concern at the gravity of the allegations and requests the Government to provide its observations thereon.*

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1996)

The Committee notes the Government's report and the comments made by the International Confederation of Free Trade Unions (ICFTU), in a communication dated 10 August 2006, which concerns the difficulty in organizing in the agricultural sector and the fact that workers who try to form or join trade unions are faced with intimidation, violence and dismissal. *The Committee requests the Government to send its observations on these comments.*

Spain

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1977)

The Committee notes the Government's report.

The Committee recalls that for many years it has been referring to the Act respecting foreign nationals (Basic Act No. 8/2000 on the rights of foreign nationals in Spain and their social integration), which prohibits “irregular” foreign workers (those without proper work papers) from exercising the right to organize. It further recalls that it has requested the Government to provide information on any measures taken to amend this Act with a view to securing the right of all foreign workers to join organizations to further their interests as workers.

The Committee notes the Government’s indication that: (1) the law in force, Basic Act No. 4/2000 of 11 January on the rights and freedoms of foreign nationals in Spain and their social integration, sets out and recognizes the rights and freedoms of foreign nationals in Spain, including those of freedom of association and the right to organize, for foreign residents who are lawfully in Spain; (2) the inclusion in the legislation in force on foreign nationals and immigration of the requirement of legal residence responded to the fact that, when formulating Basic Act No. 8/2000, the legislature considered it appropriate not to recognize the exercise of such rights for those foreign nationals whose residence in Spain involved an infringement of the provisions of Spanish legislation respecting foreign nationals and immigration on the grounds of their irregular presence on Spanish territory, and their consequent liability to a compulsory order to leave the Spanish territory or a repatriation measure; (3) freedom to organize, article 28 of the Constitution, is regulated by Basic Act No. 11/1985 of 2 August respecting freedom to organize, and the freedom of association, article 22 of the Constitution, is developed, among other provisions, by Act No. 191/1964 of 24 December; and (4) the latter laws do not cover foreign nationals who are not legally in Spain. The Government adds that various appeals have been lodged calling for Basic Act No. 4/2000 of 11 January on the rights and freedoms of foreign nationals in Spain and their social integration, in the version contained in Basic Act No. 8/2000 and in the version set out in Basic Act No. 14/2003, to be declared unconstitutional. The appeals against the constitutionality of Basic Act No. 4/2000, in the version contained in Basic Act No. 8/2000, constitute a fundamental challenge to the notion that the exercise of the right of assembly, the right to strike, freedom of association and the right to organize, and the right to free legal assistance, can be made conditional upon the administrative situation of a foreign national.

Finally, the Committee notes the Government’s indication that Royal Decree No. 2393/2004 of 30 December approved the regulations issued under Act No. 4/2000 of 11 January on the rights and freedoms of foreign nationals in Spain and their social integration. It notes that, in the context of foreign nationality and immigration, and with regard to the defence of the interests of immigrants, section 69 of Basic Act No. 4/2000 establishes the obligation for the public authorities to promote the strengthening of associative initiatives among immigrants.

In this regard, while noting the measures adopted in relation to the rights of foreign nationals and immigrants, the Committee recalls once again that, in accordance with the obligations deriving from *Article 2 of the Convention*, workers have to be accorded the right, without distinction whatsoever, to join organizations of their own choosing, with the sole exception of members of the armed forces and the police. ***Under these conditions, the Committee requests the Government to take measures to amend the Act respecting foreign nationals as indicated above and to provide information in its next report on any measure adopted in this respect and on the rulings of the judicial authorities on this issue in relation to the appeals that are currently under examination.***

Sri Lanka

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1995)

The Committee takes note of the Government’s report. It also notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, referring to issues already raised in 2005 and alleging physical violence against unionists and acts of retaliation against strikers. ***The Committee requests the Government to send its observations on these comments.***

Article 2 of the Convention. 1. *Exclusion of certain workers.* The Committee recalls that it had in its previous comments emphasized the need for clear recognition by legislation of the right of judicial officers to form associations and requested the Government to indicate the measures taken or envisaged in this regard. The Committee notes the Government’s indication that the issue of granting judicial officers the right to form associations for the defence of their members has been referred to the Chief Justice by the Ministry of Justice and Judicial Reforms and that, so far, no response has been received. ***The Committee trusts that the Government will take all necessary measures to ensure that judicial officers are guaranteed the right to establish and join organizations of their own choosing, both under the law and in practice, and requests to be kept informed of further developments in this regard.***

2. *Minimum age.* The Committee recalls that, in its previous comments, it had noted the discrepancy between the minimum age for admission to employment and the minimum age for trade union membership and had pointed out that the minimum age for trade union membership should be the same as the minimum age for admission to employment. The Committee notes that the Government indicates that a subcommittee has been appointed by the National Labour Advisory Council (NLAC) to review labour legislation and this matter is also being considered in the context of the overall labour law reforms. ***The Committee trusts that the Government will take the necessary steps to ensure the revision of this disposition and requests the Government to keep it informed of further developments in this regard and to transmit a copy of the amended text, when adopted.***

3. *Organizing in export processing zones (EPZs).* The Committee notes that the ICFTU has indicated that access for trade union representatives to EPZs is difficult and union members face intimidation, including threats of beatings by security guards, although it acknowledges that progress was made. The Committee notes that the Government indicates that EPZs were created 25 years ago and enterprises have been slow in organizing, but there is a growing trend towards unionization in the zones where ten trade unions are already operating. Two of these are enterprise-based unions, while the others are free trade zone (FTZ) of general unions. Union membership is spread over 54 out of the 268 FTZ enterprises (or 21 per cent of the total number of FTZ enterprises), with a total membership of 10,646 (out of a total EPZ workforce of 116,000 or 9 per cent of FTZ workforce). ***Taking into consideration the ICFTU's comments relating to threats and violence against trade union representatives in the EPZs, the Committee requests the Government to take the necessary measures to guarantee that trade union rights can be exercised in normal conditions in this sector.***

Articles 2 and 5. Public servants. The Committee recalls that, in its previous comments, it had requested the Government to take the necessary action to ensure that organizations of government staff officers may join confederations of their own choosing including with organizations of workers in the private sector and that first-level organizations of public employees may cover more than one ministry or department in the public service. The Committee also recalls that the Confederation of Public Service Independent Trade Unions (COPSITU) made comments related to this issue. The Committee notes that the Government indicates that: (1) the matter has been given priority under the overall labour law reforms by the subcommittee appointed by the NLAC; (2) the National Plan of Action for Decent Work in Sri Lanka which has already been presented to the Cabinet of Ministers gives priority to the amendments to the Trade Union Ordinance with a view to removing the existing restrictions; (3) this Ministry is in the process of obtaining approval of the National Plan of Action for Decent Work, and the proposals made by the subcommittee on labour law reforms would be presented to this inter-ministerial committee for the concurrence and support of the concerned ministries; and (4) action is being taken to remove the restrictions and the progress will be reported in the next report. ***The Committee trusts that the amendments to the Trade Unions Ordinance mentioned by the Government concerning this comment will be adopted in the near future and requests the Government to keep it informed in this respect.***

Articles 3 and 10. Compulsory arbitration. In its previous comments, the Committee recalled that it had expressed concern at the broad authority of the Minister to refer disputes to compulsory arbitration and had requested the Government to indicate the measures taken to ensure that workers' organizations can organize their programmes and activities without interference by the public authorities. Furthermore, it had noted that under section 4(1), the Minister may, if he or she is of the opinion that an industrial dispute is a minor dispute, refer it by an order in writing for settlement by arbitration to an arbitrator appointed by the Minister or to a labour tribunal, notwithstanding that the parties to such dispute or their representatives do not consent to such reference, and under section 4(2), the Minister may, by an order in writing, refer any industrial dispute to an industrial court for settlement. The Committee notes that the Government reiterates the indications provided in its last report. ***In these circumstances, the Committee therefore requests once again the Government to take the necessary measures to amend sections 4(1) and 4(2) that can give rise to compulsory arbitration, so as to ensure that any reference of labour disputes to compulsory arbitration is only at the request of both parties to the dispute or, in the case of essential services, in the strict sense of the term or in the case of public servants, exercising authority in the name of the State. The Committee requests the Government to keep it informed of further developments in this regard.***

Article 4. The Committee recalls that, in its previous comments, it had requested the Government to indicate the relevant legislative provisions to ensure that a decision of the registrar to withdraw or cancel registration of a trade union will not take effect until an independent judicial body has handed down a final decision on the matter. The Committee noted that, under section 16(1) of the Trade Unions Ordinance, any person aggrieved by an order made by the registrar under section 15, withdrawing or cancelling registration, may appeal against such an order by filing a petition or appeal in the district court. A further appeal could be lodged under section 17 against the order of the district court. The Committee regrets to note that the Government indicates again that, along with the appeal, the aggrieved party could file a petition seeking an interim stay of the order of the registrar and obtain an order of stay preventing any further action by the registrar pending disposal of the appeal. The Committee recalls, however, that measures of administrative dissolution, even when there is a possibility of judicial review, may involve a serious risk of interference by the authorities in the very existence of organizations and should therefore be accompanied by all the necessary guarantees. In particular, the Committee considers that the administrative decision should not take effect until a final judicial decision is handed down and that this should not depend upon whether a judge has decided to grant interim relief. ***The Committee therefore requests the Government to take the necessary measures to ensure that, in all cases where an administrative dissolution is appealed to the courts, the administrative decision will not take effect until the final decision is handed down.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1972)

The Committee takes note of the Government's report. It also notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006.

Article 1 of the Convention. Protection against acts of anti-union discrimination. 1. In its previous comments, after having noted the provisions providing protection against anti-union discrimination, the Committee noted that section 4(2)

of the Industrial Disputes (Amendment) Act of December 1999 provides that any contravention of the provisions concerning anti-union discrimination shall be punished by a fine not exceeding 20,000 rupees. According to the ICFTU, maximum penalties for unfair labour practices are too low to provide sufficient deterrence. ***The Committee requests once again the Government to provide information in its next report on the dissuasive character of this provision, in particular by indicating the relationship of the amount of the fine to the average wage or other objective indicators.***

The Committee notes that the ICFTU refers again to several cases of anti-union discrimination aimed at preventing the establishment or recognition of trade unions. In its 2004 report, the Committee had noted that, according to the ICFTU, these cases have been reported to the authorities since the adoption of the Industrial Disputes Act of December 1999 (which affords protection to workers against acts of anti-union discrimination in taking up employment and in the course of employment), without an appropriate response. The ICFTU added that adequate protection is not provided in practice, as there are no time limits required of labour authorities within which complaints should be made to the Magistrate's Court (after a complaint has been brought to the Department of Labour).

The Committee notes from the Government's report that the Department of Labour has not yet taken any legal action in order to penalize employers in individual cases on the ground of anti-union discrimination or interference and that the matter has been brought before the National Labour Advisory Council (NLAC) by one trade union for discussion; the Commissioner General of Labour advised the union to bring the individual cases before him with a view to taking legal action. According to the Government, so far no cases have been referred to the Commissioner.

The Committee notes that trade unions should be able to have direct access to the courts in order to have their complaints examined by the judicial authorities if they so wish. ***Recalling the importance of efficient and rapid proceedings to redress anti-union discrimination acts, the Committee requests the Government to take measures in consultation with the social partners in order to guarantee a more expeditious and adequate procedure, in particular establishing short delays for the examination of cases by the authority. It requests once again that the Government indicate whether trade unions have the capacity to bring their grievances concerning anti-union discrimination directly before the courts.***

Article 4. Measures to promote collective bargaining. The Committee notes from the Government's report that under the Future Directions Programme of the Ministry of Labour Relations and Employment, a Social Dialogue and Collective Bargaining Unit (SD&CBU) has been set up in order to promote and facilitate an environment conducive to collective bargaining, especially at the enterprise level. The SD&CBU carried out a survey, published in 2005, to ascertain the existing practices of workplace cooperation. According to this report, collective agreements are not widely used as a method of settling or avoiding disputes, but the situation is changing. There were collective agreements in force in 27 enterprises in the sample of 76 establishments studied in this survey (35.5 per cent of the total establishments). The report adds that this situation may be merely accidental and does not reflect the general picture of the situation, as collective agreements are not so widely accepted in regulating the labour relations in Sri Lanka. The report gives some positive examples of social dialogue in Sri Lanka and identifies strengths, weaknesses, opportunities and threats as they relate to social dialogue. The SD&CBU will be responsible for creating conducive national conditions to encourage and promote voluntary negotiation between employers' and workers' organizations. The Government indicates that the progress made will be included in future reports.

Furthermore, the Committee takes note of the *National Policy for Decent Work in Sri Lanka*, annexed to the Government's report, and notes that it developed a national plan of action for decent work, including ensuring freedom of association and the promotion of collective bargaining as a dispute resolution mechanism.

In its previous comments the Committee had requested the Government to provide detailed and concrete information concerning collective bargaining in export processing zones. The Committee notes that the ICFTU is still referring to several cases of refusal to recognize a representative trade union by employers both inside and outside the export processing zones, without any effective enforcement action being taken. The Committee notes that, according to the Government, there are no legal provisions to restrict the trade unions and the employers in BOI Enterprises from entering in collective agreements. The Industrial Disputes Act No. 43 of 1950 applies to all enterprises in the export processing zones (EPZs) without any restrictions and trade unions or workers and employers of the enterprises within the EPZs can enter into collective agreements if they desire. Furthermore, the Government indicates that section 9A of the Labour Standards and Employment Relations Manual of the Board of Investment (BOI), which is the overseeing authority of the EPZs, contains provisions to facilitate the conclusion of collective agreements. The Committee notes that this provision relates to union committee meetings and to the right of access of trade union representatives to BOI Enterprises, and that this amendment was made following a recommendation of the Committee on Freedom of Association (CFA) that trade unions enjoy the same facilities in the undertaking as employees' councils without discrimination [see 332nd Report, para. 956(a)(iv)]. The Committee notes from the Government's report that two collective agreements were signed in 2004, two in 2005, and six enterprises are in the process of negotiating collective agreements. The Government had added that there is a trend towards unionization in EPZs with nine trade unions covering approximately 10 per cent of the EPZ workforce.

Taking into account the statistics provided by the Government, the Committee considers that collective bargaining in the country still needs to be promoted in EPZs and other sectors. The Committee requests the Government to indicate in its next report the precise measures taken or contemplated for this purpose so as to ensure that the recognition provisions for collective bargaining purposes are effectively implemented in practice. The Committee

requests to be kept informed of: (1) steps taken by the Social Dialogue and Collective Bargaining Unit for the further promotion of collective bargaining; and (2) measures taken to implement the National Policy for Decent Work in relation to collective bargaining.

Article 6. Denial of the right to collective bargaining to public service workers. According to the ICFTU, the law provides for the right to collective bargaining but this right is denied to public service workers. ***Recalling that the Convention excludes only public servants engaged in the administration of the State, the Committee requests the Government to send its observations to the ICFTU comment.***

Article 4. Representative requirements for collective bargaining. In its previous comments, the Committee had noted that, according to section 32A(g) of the Industrial Disputes (Amendment) Act No. 56 of 1999, no employer shall refuse to bargain with a trade union, which has in its membership not less than 40 per cent of the workmen on whose behalf such trade union seeks to bargain. The ICFTU added that the 40 per cent threshold established in the law for the recognition of trade unions leads to employers tactics in order to avoid such recognition (in particular, changing the lists of employees, as the vote carried out to determine the representativeness is based on a list furnished by the employer). In its next report, the Government states that the national consultations so far conducted with the NLAC showed mixed opinion, but the majority of the members are in favour of retaining the threshold. This matter is now being looked into by the tripartite committee appointed by the NLAC to review the national legislation. Appropriate action will be taken on the recommendations of the tripartite committee reviewing the legislation, and after national tripartite consultations. The Committee considers that if no trade union covers more than 40 per cent of the workers, collective bargaining rights should be granted to all the unions in this unit so that they may negotiate at least on behalf of their own members. ***The Committee requests the Government to indicate in its next report the measures taken or contemplated so as to promote collective bargaining in accordance with the above observation.***

Sudan

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1957)***

The Committee notes the Government's report and regrets to observe that it contains only the text of a collective agreement. It further notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) on 10 August 2006, which refer mainly to issues previously raised by the Committee and also alleges that the export processing zone (EPZ) is exempt from the labour laws. ***The Committee hopes that a report will be supplied that contains full information on the matters raised in its previous comments.***

Violence against trade unionists and repression of trade union rights. In its last comments, the Committee had noted that the Committee on Freedom of Association, in Case No. 1843, examined in March 1998, had referred to numerous arrests and detentions frequently followed by acts of torture against trade unionists, as well as acts of interference by the Government in trade union activities. In this respect, the Committee notes that the last comments of the ICFTU indicate that trade unionists have been the subject of harassment, intimidation, arbitrary arrest, detention and torture. The Committee deplores that the Government's report does not contain any information on these serious issues and recalls that trade union rights cannot be exercised in the absence of respect for human rights. ***Considering the gravity of these allegations, the Committee urges the Government to take the necessary measures to guarantee the personal safety of trade unionists and ensure respect of the rights enshrined in the Convention and to answer to the comments made by the ICFTU.***

Article 4. 1. The Committee recalls that it had observed on many occasions that section 16 of the Industrial Relations Act of 1976, and also section 112 of the new Labour Code, allowed referral of a collective dispute or a collective labour dispute to compulsory arbitration and had requested the Government to take measures to amend the legislation so that arbitration may only be compulsory with the agreement of both parties or in the case of essential services. ***The Committee, once again, requests the Government to take measures to amend the legislation in this sense so as to bring it into conformity with the provisions of the Convention.***

2. The Committee notes that the comments made by the ICFTU indicate that collective bargaining is nearly non-existent in Sudan and that salaries are set by a government-appointed and controlled tripartite body. ***The Committee observes with concern that the Government limits itself to providing a copy of a collective agreement and requests the Government to answer to these comments and to send information on the application of the right of collective bargaining in practice, including the number of existing collective agreements as well as the sectors and workers covered.***

3. ***The Committee stresses the gravity of these matters and expresses the hope that the Government will address all its attention to the abovementioned matters.***

Swaziland

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1978)

The Committee observes that the Government's report has not been received.

It takes notes of the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) referring to issues already examined.

The Committee also notes the report of the High-level Mission that visited Swaziland from 21-27 July 2006 at the request of the Conference Committee on the Application of Standards in 2005 in the context of its examination of the application of the Convention.

For several years the Committee has been referring to provisions of the law that are inconsistent with those of the Convention, or has requested information on the effect given to some provisions in practice. In its previous comments, it asked the Government:

- to repeal the 1973 Decree/State of Emergency Proclamation and its implementing regulations, concerning trade union rights;
- to amend the 1963 Public Order Act so that it will not be used to repress lawful and peaceful strikes;
- to amend the legislation or enact other laws to ensure that prison staff and domestic workers have the right to organize in defence of their economic and social interests;
- to amend section 29(1)(i) of the Industrial Relations Act (IRA) placing statutory restrictions on the nomination of candidates and eligibility for union office, to enable such matters to be dealt with in the statutes of the organizations concerned;
- to amend IRA section 86(4) to ensure that the Conciliation, Mediation and Arbitration Commission (CMAC) does not supervise strike ballots unless the organizations so request in accordance with their own statutes;
- to recognize the right to strike in sanitary services (at present banned by IRA section 93(9)), establish only a minimum service with the participation of workers and employers in the definition of such a service;
- to amend the legislation in order to shorten the compulsory dispute settlement procedures laid down in IRA sections 85 and 86 read in conjunction with sections 70 and 82;
- with regard to the civil liability of trade union leaders, to continue to provide information on any practical application of section 40, and in particular the charges that may be brought under IRA section 40(13);
- to provide information on the effect given in practice to IRA section 97(1) (criminal liability of trade union leaders) and to ensure that penalties applying to strikers under section 88 are proportionate to the seriousness of the offence and that enforcement of section 87 does not impair the right to strike.

In its previous observation the Committee further noted that the SFTU had raised serious concerns about the drafting process and the content of the Constitution, which had apparently been approved by Parliament. The Committee recalls that in 2005, the Conference Committee urged the Government to accept the abovementioned High-level Mission to establish a meaningful framework for social dialogue, and to review the impact of the Constitution on the rights embodied in the Convention. The Committee observes that the Mission's report indicates that the Constitution entered into force on 8 February 2006 and that the social partners and civil society organizations share the view that in the consultations held for the adoption of the Constitution, they were not given the opportunity to voice their concerns as interest groups.

The Committee notes with interest in connection with the foregoing that, at the Mission's proposal, the Government and the social partners signed an agreement undertaking to set up a Special Consultative Tripartite Sub-Committee within the framework of the High-level Steering Committee on Social Dialogue. The terms of reference of the Subcommittee are: (1) to review the impact of the Constitution on the rights embodied in Convention No. 87; and (2) to make recommendations to the competent authorities to eliminate the discrepancies between the existing legislative provisions and the Convention. The Committee also notes that the abovementioned agreement provides for the Sub-Committee to start work promptly and provide a progress report for transmission to the ILO by the end of April 2007. ***The Committee expresses the hope that the legislation will be brought into full conformity with the requirements of the Convention, and asks the Government to provide information in its next report on any developments in this regard.***

Lastly, in its previous comments the Committee noted that, according to the ICFTU, in August 2003 a three-day protest by Swazi labour federations was violently broken up by police using tear gas and rubber bullets, during which a trade unionist was killed. The Committee asked the Government to report on any investigations into the matter. It notes with interest that: (1) the Mission took the view that an independent inquiry should be held as recommended by the Committee and that the investigators should be given full freedom and independence to investigate the allegations fully and to clarify all the facts; and (2) at the request of the Government, the Mission drew up terms of reference for an independent judicial inquiry to be undertaken. ***The Committee trusts that the inquiry will be held in the near future and asks the Government to provide information on its outcome in its next report.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1978)***

The Committee notes that no report has been received from the Government. The Committee notes the observations of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, which refer to issues that have already been examined and a number of acts of anti-union discrimination in the textile sector. ***The Committee asks the Government to send its comments on these observations.***

The Committee also notes the report of the high-level mission that visited Swaziland from 21 to 27 June 2006 at the request of the Conference Committee on the Application of Standards in 2005 within the framework of the examination of the application of Convention No. 87.

The Committee recalls that in its previous comments it referred to the following points:

- the need to adopt specific provisions accompanied by sufficiently effective and dissuasive sanctions for the protection of workers' organizations against acts of interference by employers or their organizations, as required pursuant to *Article 2 of the Convention*; and
- the need to adopt a specific legislative provision so as to ensure that if no union covers more than 50 per cent of the workers, collective bargaining rights are granted to the unions in the unit, at least on behalf of their own members (*Article 6 of the Convention*).

In this respect, the Committee notes with interest that, at the suggestion of the high-level mission, the Government and the social partners signed an agreement by which they undertake to establish, within the framework of the High-level Executive Committee on Social Dialogue formed in 2005, a special tripartite advisory committee to make recommendations to the competent authorities in order to eliminate the existing discrepancies between the legislation and the Articles of the Convention. The Committee also notes that the aforementioned agreement provides that the subcommittee shall begin work quickly and that it shall communicate a progress report to the ILO by the end of April 2007. ***The Committee hopes that this legislation will be brought into line with the requirements of the Convention and asks the Government to provide information on any developments in this regard in its next report.***

Switzerland

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1999)***

The Committee notes the Government's report received at the end of its session as well as the comments of the International Confederation of Free Trade Unions (ICFTU), dated 12 July and 10 August 2006. The Committee further notes the discussion, which took place at the Conference Committee in June 2006. The Committee notes that the Government transmits the comments of the Union of Swiss Employers (UPS) and the Swiss Federation of Trade Unions (USS).

Given that the extensive report of the Government was received late, the Committee will only be able to examine these questions at its next session.

Syrian Arab Republic

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes that the Government's report was received on 1 December 2006 in Arabic and is being translated.

The Committee notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in communications dated 31 August 2005 and 10 August 2006 on the application of the Convention.

Referring to its previous comments, the Committee recalls that it had requested the Government:

- (1) to indicate in its next report whether the right to organize of public servants is governed by section 2 of Legislative Decree No. 84 of 1996, as amended, or by other legislative provisions and, if so, to provide copies of the relevant legislation;
- (2) to take the necessary measures to repeal or amend the following legislative provisions which:
 - establish a regime of trade union monopoly (sections 3, 4, 5 and 7 of Legislative Decree No. 84, sections 4, 6, 8, 13, 14 and 15 of Legislative Decree No. 3 amending Legislative Decree No. 84, section 2 of Legislative Decree No. 250 of 1969 and sections 26 to 31 of Act No. 21 of 1974);
 - authorize the Minister to set the conditions and procedures for the use of trade union funds (section 18(a) of Legislative Decree No. 84 as amended by section 4(5) of Legislative Decree No. 30 of 1982); and

- determine the composition of the General Federation of Trade Unions (GFTU) Congress and its presiding officers (section 1(4) of Act No. 29 of 1986 amending Legislative Decree No. 84);
- (3) to amend section 44(3)(b) of Legislative Decree No. 84 so as to allow a certain percentage of trade union officers to be foreigners, at least after a reasonable period of residence in the country; and
- (4) to amend the legislative provisions which:
 - restrict the right to strike by imposing heavy sanctions including imprisonment (sections 330, 332, 333 and 334 of Legislative Decree No. 148 of 1949, issuing the Penal Code); and
 - impose forced labour on anyone causing prejudice to the general production plan decreed by the authorities, by acting in a manner contrary to the plan (section 19 of Legislative Decree No. 37 of 1966 concerning the economic Penal Code).

The Committee will examine the abovementioned questions at its next session with the translation of the Government's report.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1957)***

The Committee notes the Government's report.

The Committee notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 10 August 2006, which refer to issues previously raised by the Committee. *The Committee requests the Government to send its observations on the ICFTU's comments with its next report.*

The Committee notes with concern that, according to the report of the Government, no collective agreements have been concluded in the last three years. *The Committee requests the Government to promote collective bargaining in the country and, in view of the gravity of the situation, invites the Government to solicit the technical assistance of the ILO.*

Tajikistan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1993)

The Committee notes the Government's report. The Committee further notes the Law on Employers' Associations of 17 May 2004, the Law on Assemblies, Meetings, Demonstrations and Peaceful Processions of 2 May 1998, and the Penal Code of 21 May 1998. The Committee will examine these pieces of legislation at its next meeting, once translation thereof is available.

The former Yugoslav Republic of Macedonia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1991)

The Committee notes with regret that the Government's report has not been received.

The Committee had previously requested the Government to indicate steps taken to finalize the registration of the Union of Employers of Macedonia (UEM). The Committee notes with interest from information provided by the Confederation of Employers of the Republic of Macedonia, a successor of the UEM, that it has been registered.

The Committee further notes the comments submitted on 30 August 2006 by the International Confederation of Free Trade Unions (ICFTU) on the Labour Relations Law of 22 July 2005. The Committee recalls that in its previous observation it had indicated that it would examine this Law during the regular reporting cycle in 2006. In this respect, the Committee is addressing a request directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1991)***

The Committee notes with regret that the Government's report has not been received.

The Committee notes the new Labour Relations Act, promulgated on 22 July 2005, abrogating the former Labour Relations Act (Official Gazette, No. 80/93). The Committee recalls the problems it had raised in its previous comments.

Article 2 of the Convention. Protection against act of interference. The Committee had noted that, in the former Labour Relations Act (article 78, paragraph 2), there was no prohibition or imposition of any penalty against interference by employers or their organizations in the functioning and administration of workers' organizations and vice versa and, in particular, against the domination of workers' organizations by employers or employers' organizations, or the financial support of workers' organizations by employers' organizations.

The Committee notes with satisfaction that the new Labour Relations Act contains provisions on the protection against acts of interference, in particular the ban on employers' interference (articles 195, 199 and 202) with dissuasive

sanctions and guarantees (articles 10 and 11). Moreover, the new legislation foresees the possibility of seeking court protection in case of acts of interference by employers against freedom of association.

Article 4. Measures to encourage and promote the development of voluntary negotiation between employers' and workers' organizations. The Committee had also noted that, when determining salaries (article 97 of the Former Labour Relations Act), the parties to collective negotiations were obliged to consider the defined salary policy and the basic accumulative amounts in the macroeconomic policy of the year. The Committee notes with satisfaction that the new legislation, which expressly abrogates the former Labour Relations Act, no longer contains this provision.

Article 4. Collective bargaining. The Committee had noted the conclusions of the Committee on Freedom of Association in Case No. 2133 that employers' organizations (in particular, the Confederation of Employers) are unable to engage in collective bargaining at the national level, as they cannot be registered (and therefore recognized) due to the absence of legislation on this issue. The Committee notes with satisfaction that, in a communication dated 7 November 2006, the Confederation of Employers of the Republic of Macedonia indicates that it has obtained its registration. On the other hand, the Committee had noted in its previous comments the legislative gap that existed in the area of registration and recognition of employers' organizations that constituted obstacles to employers' participation in collective bargaining, contrary to *Article 4* of the Convention. The Committee takes due note that the new legislation foresees registration of employers' associations and of trade unions organizations as well (articles 190, 191 and 192 of the Labour Relations Act) though, as it is pointed out in the following paragraphs, some problems remain.

Comments made by the International Confederation of Free Trade Unions (ICFTU). The Committee notes the comments made by the ICFTU in a communication dated 30 August 2006. These comments concern problems already examined by the Committee and new problems related to the new Labour Relations Act passed on 22 July 2005 and more particularly: (1) the demand that a trade union must represent 33 per cent of employees at enterprise level, or at higher level, in order to enter into a collective agreement is excessive; (2) the lack of procedures for establishing the negotiation board among unions when none of them represent 33 per cent of the workers of a given level (including national); and (3) the lack of legal criteria for determining the most representative organizations, even at the highest level.

The Committee notes that the points mentioned by the ICFTU are identifiable in the legislation (articles 216, 217, 218 and 219 of the Labour Relations Act) and imply problems of application of the Convention. The Committee notes that the 33 per cent requirement is also highlighted by the Confederation of Employers of the Republic of Macedonia. The Committee considers that the percentage of 33 per cent of employees at all the levels is excessive and does not promote collective bargaining as required by *Article 4* of the Convention. The Committee notes also that the procedure to determine the representativeness of the organizations is not developed in the new legislation. ***The Committee requests the Government to take the necessary steps to modify the legislation in order to remove the requirement to collective bargaining that a trade union and the employers (or the organization of employers) must represent 33 per cent of employees (for all levels), and to take measures in order to adopt provisions for a fair determination of the representativeness of the highest level based on objective and pre-established criteria and for the composition of the negotiation board when no trade union organization represents 33 per cent of employees or no employers' organization meets the same requirement.***

Togo

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes that the Government's report has not been received.

Article 2 of the Convention. Export processing zones. The Committee also notes the comments made by the International Confederation of Free Trade Unions (ICFTU) on 10 August 2006 referring to matters already raised in its previous observation, and particularly the exercise of trade union rights in export processing zones. ***In this regard, recalling that for several years it has been commenting on the need for workers in export processing zones to benefit from trade union rights, the Committee requests the Government to keep it informed of any trade union organization that has requested the legal capacity to defend workers in export processing zones.***

Article 3. Right of foreign workers to hold trade union office. In its previous comments, the Committee noted the draft amendment prepared by the Government to bring section 6 of the Labour Code, concerning the right of foreign workers to hold trade union office, into conformity with the Convention. The Committee noted that, according to the Government, the draft text of the new Labour Code, which was in the final stages of adoption, took this concern into account and contained provisions that are compatible with the Convention. ***The Committee requests the Government to keep it informed in this respect and to provide a copy of the abovementioned text.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1983)

The Committee notes that the Government's report has not been received.

It also notes the comments of the International Confederation of Free Trade Unions (ICFTU) of 10 August 2006, according to which the right to collective bargaining is limited to a single agreement that must be negotiated at national level and approved by government representatives as well as trade unions and employers. Moreover, the ICFTU points out that employees in free zones do not enjoy the same protection against anti-union discrimination as other workers. *The Committee requests the Government to respond to these comments in its next report.*

Trinidad and Tobago

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1963)

The Committee notes that the Government has not provided its report.

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 10 August 2006, relating to pending legislative issues that are already under examination.

The Committee also recalls that it has been requesting the Government for several years to take measures to:

- amend section 59(4)(a) of the Industrial Relations Act, as amended, 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. The Committee is bound to recall that the requirement for the exercise of the right to strike to be subject to prior approval by a certain percentage of workers is not in itself incompatible with the Convention; on the other hand, legislative provisions which require a vote by workers before a strike can be held should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see 1994 General Survey on freedom of association and collective bargaining, paragraph 170);
- amend sections 61 and 65 of the same Act to ensure that any recourse 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 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 or in relation to public servants exercising authority in the name of the State;
- amend section 67 of the Act to ensure that the prohibition of industrial action in essential services is limited to cases of strikes in essential services in the strict sense of the term (in particular, the Committee noted the inclusion in the list of essential services in schedule 2 of a public school bus service, which cannot be considered to be essential in the strict sense of the term); and
- repeal the restrictions under section 69 prohibiting the teaching service and employees of the Central Bank from taking industrial action, under penalty of 18 months' imprisonment, in the case that such restrictions are still in force.

Recalling that the right to strike is an intrinsic corollary of the right of association protected by the Convention, the Committee once again urges the Government to take the necessary measures to amend the legislation so as to bring it into conformity with the provisions of the Convention. The Committee requests the Government to indicate in its next report any measure adopted in this respect.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1963)

The Committee notes that the Government has not provided its report.

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU), dated 10 August 2006, referring to pending legislative issues that are already under examination.

1. *Article 4 of the Convention.* The Committee recalls that for several years its comments have been referring to the need to amend provisions that afford a privileged position to associations that are already registered, without providing objective and pre-established criteria for determining the most representative association in the public service (section 24(3) of the Civil Service Act). *The Committee requests the Government to adopt measures as indicated above and to provide information in this respect in its next report.*

2. *Promotion of collective bargaining.* In its previous comments, the Committee referred to the need to amend section 34 of the Industrial Relations Act (IRA) in order to ensure that, in cases in which no trade union represents the majority of workers, the minority unions can negotiate jointly a collective agreement applicable in the negotiating unit, or at least conclude a collective agreement on behalf of their own members. *The Committee once again requests the Government to take the necessary measures to amend section 34 of the IRA as indicated above and to provide information in its next report on any measure adopted in this respect.*

Tunisia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

The Committee takes note of the Government's report. It notes with regret however that some provisions of the Labour Code continue to be inconsistent with the Convention despite the comments the Committee has been making for many years.

The Committee notes the comments of 10 August 2006 by the International Confederation of Free Trade Unions (ICFTU) referring, inter alia, to the risk for abuse of the right to strike, cases of assault and of violence used against strikers, harassment and intimidation of members of a magistrates' association and a journalists' union. The Committee notes the communication of the Government (received during the Committee's session) which replies to the ICFTU's comments. ***The Committee will examine the ICFTU's comments and the Government's reply at its next session.***

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their own choosing. The Committee notes that the Government's report does not reply to the Committee's previous comments concerning the determination, in section 242 of the Labour Code, of 16 years as the minimum age for joining a trade union, unless the father or guardian expresses opposition. ***The Committee reminds the Government that the minimum age for joining a trade union should be the same as the age for admission to employment, and that there should be no requirement for parental authorization. It again asks the Government to take the necessary steps to have section 242 amended accordingly.***

Article 3. Right of workers' organizations to organize their administration and activities. 1. For many years, the Committee has been stressing that to require a base-level union to obtain the approval of the central workers' confederation before declaring a strike, as required by section 376bis(2) of the Labour Code, is inconsistent with the Convention. The Government indicates in its report that the abovementioned provisions have caused no problems in practice and have prompted no observations or complaints on the part of the central workers' organization. It adds that central organizations are responsible for approving strikes and are free to incorporate provisions in their statutes or rules specifying the practical arrangements for the strike. The Committee is bound to point out once again that to require by law the prior approval of the central workers' union is an impediment to the base organizations' free choice as to exercise of the right to strike. A restriction of this kind can be envisaged only where it is incorporated voluntarily in the statutes of the trade unions concerned and not imposed by law. ***The Committee urges the Government to take the necessary steps to repeal section 376bis(2) of the Labour Code so as to ensure that workers' organizations, irrespective of their level, may organize their activities in full freedom with a view to furthering and defending the interests of their members, in accordance with Article 3 of the Convention.***

2. In earlier observations, the Committee noted that: (a) the imposition of the penalties set forth in section 388 of the Labour Code, under which any person who has participated in an unlawful strike is liable to a sentence of imprisonment of from three to eight months and a fine of from 100 to 500 dinars, depends on how serious the court finds the violations to be; (b) under section 387 of the Labour Code, any strike called in breach of the provisions on conciliation and mediation, notice, and mandatory approval by the central organization – see paragraph 1 above – is unlawful; and (c) section 53 of the Penal Code, by allowing the courts to impose a lesser penalty than the minimum established in section 388 or to commute a prison sentence into a fine, fails to secure proportionality of penalties. The Committee observes that in its report, the Government merely reiterates that the nature of the penalty is at the discretion of the court and depends on the seriousness of the violation. ***The Committee notes with regret that there has been no progress on these matters. It observes that the penalty for participating in an unlawful strike is likely to be disproportionate to the seriousness of the offence, and urges the Government to take the necessary steps to amend sections 387 and 388 of the Labour Code to bring them into line with Article 3 of the Convention.***

3. With regard to section 376ter of the Labour Code requiring the notice of strike action to state the duration of the strike, the Committee has pointed out on several occasions that to require workers and their organizations to specify the length of the strike was liable to restrict the right of workers' organizations to organize their administration and activities and to formulate their programmes. The Committee notes that in reply the Government merely states that the provision in question was discussed in a tripartite committee and that the representatives of the occupational organizations concerned raised no objections. ***The Committee urges the Government to amend its legislation to ensure that workers' organizations are not required by law to specify the duration of a strike.***

4. With regard to essential services, a list of which is set by decree pursuant to section 381ter of the Labour Code, the Committee again points out that this Article of the Convention allows the prime minister to refer a dispute to arbitration only where it involves an essential service in the strict sense. ***The Committee requests the Government to indicate whether the abovementioned decree has now been adopted and, if so, to send the list of essential services with its next report.***

5. Finally, in its previous comments, the Committee drew the Government's attention to the need to amend section 251 of the Labour Code under which foreigners are eligible for administrative or executive posts in a trade union provided that they have the approval of the Secretary of State for Youth, Sport and Social Affairs. The Committee notes that, here

too, the Government merely states that the requirement has prompted no particular comments from the occupational organizations. The Committee points out once again that to impose such conditions on foreigners amounts to interference by the public authorities in the internal affairs of a trade union, which is inconsistent with *Article 3* of the Convention. ***The Committee urges the Government to take the necessary steps to amend section 251 so as to ensure that workers' organizations have the right to elect their representatives in full freedom, including from among foreign workers or at least those who have completed a reasonable period of residence in the host country.***

Turkey

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1993)

The Committee notes the Government's report.

Comments of workers' organizations. The Committee takes note of the comments made by the following workers' organizations: the Confederation of Turkish Public Employees Union (TURKIYE-KAMU-SEN) concerning, inter alia, government interference in trade union activities – ban of union-related booklets, posters, advertisements, calendars in some institutions (communication dated 9 February 2006), the Confederation of Turkish Trade Unions (TURK-IŞ) concerning issues relating to the right to strike (communication dated 17 April 2006), the Confederation of Progressive Trade Unions of Turkey (DISK) commenting on certain negative aspects of the draft Bills Nos. 2821 and 2822 (communication dated 9 June 2006). The Committee also notes the communication of the International Confederation of Free Trade Unions (ICFTU) concerning issues already raised and allegations concerning government interference in trade union statutes, and police violence and arrests of trade unionists during peaceful demonstrations (communications dated 12 July 2006 and 10 August 2006). The Committee notes the observations of the Government, dated 19 July 2006, regarding the communication of TURKIYE-KAMU-SEN, as well as those of 19 October 2006, regarding the communication of DISK and those of 17 October 2006, regarding the communication of the ICFTU. Noting the seriousness of these allegations concerning acts of violence, the Committee recalls that the right of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for governments to ensure that this principle is respected. The Committee notes the Government's indications that, as these allegations concern private enterprises, the gathering of information will take time and that the plaintiff may lodge complaints concerning discrimination incompatible with trade union rights. ***The Committee expresses the hope that the Government will take the necessary measures to conduct investigations with respect to the allegations concerning acts of violence and requests the Government to send its observations on all pending comments.***

The Committee also takes note of the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2303 (see 342nd Report, June 2006) concerning inter alia the amendments to Trade Unions Act No. 2821 and Collective Agreements, Strike and Lockout Act No. 2822.

New Acts. The Committee notes the adoption of a new Associations Act No. 5253, enacted in 2004 and replacing Act No. 2908, and a new Penal Code. The Committee will examine these texts once it has the translation at its disposal.

Draft bills. In its previous comments, the Committee noted that drafts with modifications to Act No. 4688 on public employees' trade unions (amended by Act No. 5198), Trade Unions Act No. 2821, and Collective Labour Agreements, Strike and Lockout Act No. 2822 were under preparation. The Committee notes that the Government indicates that consultations with the social partners are continuing.

Furthermore, the Committee noted with interest that the draft bills amending Acts Nos. 2821 and 2822 contained improvements in the application of the Convention and thereby addressed some of the questions raised by the Committee: (1) the removal of two conditions of eligibility for the election of trade union officers: the condition of nationality and the condition of at least ten years of employment (Act No. 2821, section 14, paragraph 14); (2) the abrogation of the provision under which trade union officers' mandates are suspended in case of candidacy in local or general elections and terminated in case of election (Act No. 2821, section 37, paragraph 3); (3) the abrogation of the provision under which the Governor is entitled to appoint an observer at the general congress of a trade union (Act No. 2821, section 14, paragraph 1); (4) the removal from the list of activities where strikes are prohibited of the following activities: the production of lignite coal for thermal plants; public notaries; sea and land transport or railway, and other rail transport (Act No. 2822, section 29); urban public transportation on land, sea or rail; lignite production to feed power plants; exploration, production, refining and distribution of petroleum; petrochemicals the production of which is based on naphtha or natural gas; (5) the removal of the prohibition of unions' television and radio stations which results from Act No. 3984; (6) the exclusion of unions from the scope of section 43 of Associations Act No. 2908, which provides that associations are allowed to invite any foreigner to Turkey or send one of their members abroad, provided due notification is given in advance to the Governor.

However, a number of concerns had remained valid and related to:

Article 2 of the Convention. 1. *The exclusion from the right to organize of a number of public employees (sections 3(a) and 15 of Act No. 4688).* The Committee notes that the Government indicates in its report that criticism made with

respect to sections 3(a) and 15 will be taken into consideration when Act No. 4688 is under review and that the Tripartite Consultation Board unanimously agreed in its meeting on 19 May 2005 on the need to make amendments to the said Act in order to allow public servants to form or join unions during probation period. Furthermore, the Committee notes that, in its reply to one of TURKIYE-KAMU-SEN's comments, the Government indicates that all public servants except the employees having "worker" status are covered by Act No. 4688, as stipulated in its article 2 (workers employed in the public sector have the same rights as private sector workers since they are covered by Acts Nos. 2821 and 2822); however, article 15 of Act No. 4688 recognizes the right to organize of those public servants who are not employed in the judiciary, security or central supervision cadres and not engaged in the administration of the State. The Committee recalls that, under section 3(a), the definition of "public employee" refers only to those who are permanently employed and have finished their trial periods. With respect to public officials, the Committee recalls that, under section 6 of Act No. 4688, a public official must have been in employment for two years to become a founding member of a union. The Committee notes from the Government's report that the tripartite consultation board unanimously agreed on the need to amend Act No. 4688 in order to allow public servants to form or join unions during probation. Section 15 lists categories of public employees who are prohibited from joining trade unions. The Committee underlines that *Article 2* of the Convention provides that workers without distinction whatsoever should have the right to form and join organizations of their own choosing and that the only admissible exception under the Convention concerns the armed forces and the police. It follows, in particular, that the right to organize of public employees cannot hinge on the duration of their contract of employment. As regards public employees "in position of trust", the Committee recalls once again that it is not compatible with the Convention to exclude totally these public officials from the right to organize. On the other hand, to bar such officials from the right to join trade unions representing other workers is not necessarily incompatible with the Convention provided that two conditions are met: first, that the officials concerned have the right to form their own organizations to defend their own interests; and, second, that the category of the employees concerned is not so broadly defined as to weaken the organizations of other public employees by depriving them of a substantial proportion of their actual or potential membership. ***The Committee requests the Government to ensure that the legislative reform under way takes into account the abovementioned concerns, so that all workers, without distinction whatsoever, have the right to form and join an organization of their own choosing and requests the Government to keep it informed of the progress made in this regard.***

2. *The criteria under which the Ministry of Labour determines the branch of activity covering a worksite (unions must be constituted on a branch activity basis) and the implications of such determination on the workers' right to form and join organizations of their own choosing (sections 3 and 4 of Act No. 2821).* In its report, the Government indicates that classification of the work under a branch of activity takes into account international standards and the views of workers' and employers' confederations. The parties concerned by the decision of the Ministry of Labour may take legal action against the decision at the local labour court and its ruling may be appealed at the court of cassation. The Government indicates in its report that the draft bill on trade unions has fewer branches of activity in order to make a more rational classification and pave the way to much stronger trade unions. The Committee recalls that it considers that the setting up of broad bands of classification, relating to branches of activity for the purpose of clarifying the nature and scope of industrial level unions, is not in itself incompatible with the Convention. On the other hand, the Committee considers that this classification, and its modification, should be determined according to specific, objective and pre-established criteria relating in particular to the nature of the functions carried out by the workers at the worksite concerned so as to avoid any arbitrary determination and thus to guarantee fully the right of workers to form and join organizations of their own choosing. ***The Committee requests the Government to specify the criteria on which a particular worksite is classified in a given branch of activity. The Committee further requests the Government to take the necessary measures so that members of a union which may be affected by the modification of the list of branches of activity will have the right to be represented by the union of their choice in accordance with Article 2.***

Article 3. 1. The detailed provisions of Acts Nos. 4688, 2821 and 2822 in respect of the internal functioning of unions and their activities. The Committee notes the Government's report indicating that the rationale behind the detailed provisions of Acts Nos. 4688, 2821 and 2822 is to ensure the democratic functioning of the unions and to protect the rights of their members. The Government indicates that, nevertheless, draft bills Nos. 2821 and 2822 will make legislation less detailed. The Committee recalls that legislative provisions, which go beyond formal requirements, may hinder the establishment and development of organizations and constitute interference contrary to *Article 3(2)* of the Convention (see 1994 General Survey on freedom of association and collective bargaining, paragraphs 110 and 111). The legislation may oblige unions to adopt provisions on various issues but should not dictate the contents of these provisions. Details could always be provided in guidelines attached to the Acts that the unions would nonetheless remain free to follow. ***The Committee trusts that this issue will be taken into account in the draft legislation and requests the Government to keep it informed in this respect.***

2. *The removal of union executive bodies in case of non-respect of requirements set out in the law which should be left to the free determination of the organizations (section 10 of Act No. 4688).* The Committee notes the indication in the Government's report that only a judicial verdict can have the effect of removing a union executive. The Committee considers that workers' organizations may organize their administration and activities without any interference by public authorities on grounds which are incompatible with *Article 3*. ***The Committee requests the Government to take the***

necessary measures to amend section 10 of Act No. 4688 to enable workers' organizations to determine freely whether union officials may remain in their post during their candidacy or election in local or general elections.

3. *The right to strike in the public service (section 35 of Act No. 4688).* The Committee recalls that section 35 of Act No. 4688 makes no mention of the circumstances in which strike action may be exercised in the public service. The Committee notes that the Government indicates that constitutional amendment is required for the review of restrictions on the right to strike of public servants. The Committee underlines that restrictions to the right to strike in the public service hinge solely on the functions carried out by the public employees concerned. Thus, restrictions on the right to strike in the public service should be limited to public servants who are exercising authority in the name of the State and those working in essential services in the strict sense of the term (see General Survey, op. cit., paragraphs 158 and 159). Where the right to strike is prohibited or limited in a manner compatible with the Convention, compensatory guarantees should be afforded to public servants, such as mediation and conciliation procedures or, in the event of deadlock, arbitration with sufficient guarantees of impartiality and rapidity (see General Survey, op. cit., paragraph 164). ***The Committee requests the Government to take the necessary measures to ensure that the abovementioned principles are respected.***

4. *The right to strike under Act No. 2822.* The Committee recalls that it has commented on several occasions on certain provisions of Act No. 2822 concerning the right to strike and which are incompatible with the Convention: section 25 prohibiting strikes for political purposes, general strikes and sympathy strikes (furthermore, article 54 of the Constitution which contains similar prohibitions further prohibits occupation of work premises, go-slow strikes and other forms of obstruction); section 48 placing severe limitations on picketing; sections 29 and 30 prohibiting strikes in many services which cannot be considered to be essential in the strict sense of the term and section 32 under which compulsory arbitration at the request of any party may be imposed in the services where strikes are prohibited; sections 27 (referring to section 23) and 35 providing for an excessively long waiting period before a strike can be called. The Committee notes in this regard that, according to the Government, this waiting period from the beginning of the negotiations until the strike begins is considerably shortened under the draft bill amending Act No. 2822, being now of a maximum of 30 days and 45 days if the parties have recourse to mediation; sections 70-73, 77 and 79 providing for heavy sanctions, including imprisonment, for participating in "unlawful strikes" the prohibition of which, however, is contrary to the principles of freedom of association. In this respect, the Committee notes that the Government indicates that some of the restrictions on the right to strike, such as those mentioned in section 25, require a constitutional amendment. However, several restrictions will be lifted with the amendment of Act No. 2822. ***The Committee requests the Government to keep it informed of the progress made in adopting the draft bill amending Act No. 2822.***

The Committee requests the Government to ensure that all issues raised above be addressed and that the final draft bills and the future legislation will be in full conformity with the Convention. Furthermore, the Committee requests once again the Government to transmit a copy of the new draft modifying Act No. 4688. The Committee once again recalls that ILO technical assistance is available in this regard should the Government so desire.

Other questions. 1. In its previous comments, the Committee had requested the Government to provide information concerning the measures taken so as to ensure that article 312 of the Penal Code which provides for imprisonment for "inciting hatred" is not applied to trade unionists carrying out legitimate trade union activities. In its report, the Government indicates that article 312 has been replaced by articles 215, 216 and 218, and that these articles (both old and new) apply to every person who commits acts of praise for a crime committed or criminal persons, incitement to hatred and enmity of one group of people against another, and insult to one part of the population, regardless of his/her status or trade union function. They are not related to legitimate trade union activities and do not apply to trade unionists who exercise the right to organize their legitimate union activities.

2. Concerning the lawsuit against DISK in respect of the election of its representatives, the Committee notes that the Government does not provide concrete information in this respect. ***In these circumstances, the Committee requests the Government to take the necessary measures to withdraw this lawsuit.***

Furthermore, the Committee notes the communication of the Confederation of Public Employees' Trade Unions (KESK) dated 2 September 2006 on the application of the Convention. ***The Committee requests the Government to send its observations concerning KESK's communication.***

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

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee takes note of the Government's report.

The Committee takes note of the observations by the following workers organizations: the Confederation of Turkish Public Employees Union (TURKIYE-KAMU-SEN) (communication dated 9 February 2006), the Confederation of Progressive Trade Unions of Turkey (DISK) (communication dated 9 June 2006), and the International Confederation of Free Trade Unions (ICFTU) (communications dated 12 July 2006 and 10 August 2006). The Committee notes the observations of the Government regarding the communication of the TURKIYE-KAMU-SEN, and regarding the communication of the DISK.

The Committee also takes note of the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2303 (see 342nd Report, June 2006) concerning, inter alia, the amendments to the Trade Unions Act No. 2821 and the Collective Agreements, Strikes and Lockouts Act No. 2822.

In its previous comments, the Committee examined the conformity with the Convention of the following laws: Act No. 4688 on public employees' trade unions, the Unions Act No. 2821, and the Collective Agreements, Strikes and Lockout Act No. 2822. The Committee noted that certain sections of Act No. 4688 have been amended by Act No. 5198 and a draft comprising further modifications to Act No. 4688 is under preparation. With respect to Acts Nos. 2821 and 2822, the Committee noted that two draft bills have been prepared. Moreover, the Committee notes the adoption of a new Associations Act No. 5253, enacted in 2004, and replacing Act No. 2908, and a new Penal Code. The Committee will examine these two texts once it has at its disposal the translation. ***The Committee requests once again the Government to transmit the second text amending Act No. 4688.***

Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination. The Committee recalls that its previous comments related to section 18 of Act No. 4688; while this provision generally provides for a prohibition of acts of anti-union discrimination, this guarantee is not accompanied by sufficiently effective and dissuasive sanctions. The Committee notes that, in its 2005 observations, the ICFTU points to a number of instances in which public employees, as trade union members or officers, suffered various acts of anti-union discrimination. The Committee also notes that the Committee on Freedom of Association has examined, in Case No. 2200, allegations of anti-union discrimination in the public service (see 334th Report, paragraphs 722-762, and 338th Report, paragraphs 319-327). In its report, the Government indicates that cases of violations of section 18 of Act No. 4688 by any administrative officer will be punished with disciplinary measures in accordance with the legislation applicable to public personnel. Moreover, the Government indicates that the new Turkish Penal Code No. 5237, which came into effect in June 2005, introduced new provisions for protection against acts of anti-union discrimination. Section 118 prohibits acts of anti-union discrimination and provides dissuasive sanctions: it stipulates that any person who uses force or threats with the aim of compelling a person to join a trade union or not to join, or to participate in union activities or not to participate in them, to resign from a trade union or from his/her position in the union management, shall be punished with imprisonment from six months to two years. Furthermore, section 118 states that a judgement of imprisonment for one year to three years shall be given in cases where a trade union's activities are obstructed by using force, threats or other unlawful acts. Section 135 stipulates that any person found guilty of recording personal data of a person unlawfully, including his/her trade union attachments, shall be punished with imprisonment from six months to three years. The Committee takes note of this information with interest.

With regards to the comment of the TURKIYE-KAMU-SEN concerning general and specific violations of section 18 of Act No. 4688 (as amended by Act No. 5198), the Government observed in its comments to the TURKIYE-KAMU-SEN's communication that this provision provides sufficient guarantees to union representatives and union officials. It contains a legal obligation, the breach of which can be brought to the court. Any union representatives or official transferred to other workplaces without a valid reason has the right to take legal action. Without more information, the Government is unable to comment on the merits of the 62 cases mentioned in the TURKIYE-KAMU-SEN's communication, but insists that it attaches great importance to ensuring that administrative practice is fully in line with the law. ***The Committee requests the Government to ensure that the provisions of the Convention are applied in law and in practice and requests the Government to keep it informed in future reports of any further measures taken or envisaged to ensure adequate protection against anti-union discrimination.***

Article 4. Free and voluntary collective bargaining. 1. With respect to the dual criteria to determine the representative status of a union for the purpose of collective bargaining set out in section 12 of Act No. 2822 (under which, in order to be allowed to negotiate a collective agreement, a trade union must represent 10 per cent of the workers in a branch and more than half of the employees in a workplace), the Committee expressed the firm hope in its previous comments (see the 2002 observation), that the Government would take the necessary measures to ensure the conformity of the draft Bill amending Act No. 2822 with the requirements of the Convention. The Committee takes note of the Government's indication that the draft Bill of Act No. 2822 contains two alternative proposals for determining the representative status of unions. On the one hand, the amendment to section 12 stipulates that a majority union in a given workplace shall be recognized as the competent union for collective bargaining if the union concerned is affiliated to one of the three most representative trade union confederations. On the other hand, the alternative amendment proposal envisages the gradual elimination of the 10 per cent representation requirement in the branch of activity concerned without any condition for affiliation. The Committee also takes note of the DISK communication, dated 9 June 2006, in which it states that it has received from the Government the draft Bills amending Acts Nos. 2821 and 2822, as well as the alternative text of 10 per cent threshold. The DISK has examined these drafts and is of the opinion that the draft Bill amending Act No. 2822 and the alternative text of 10 per cent threshold do not provide a solution to any problems in collective labour relations and do not contribute to free use of union rights. The Committee recalls that the dual numerical requirement in section 12 of Act No. 2822 are not in accordance with the principle of voluntary collective bargaining. Thus, under the current legislation, unions representing the majority of workers in a workplace but not having membership strength of more than 50 per cent of the workers cannot enter into collective bargaining with the employer. The Committee considers that, at the enterprise level, if no single union covers more than 50 per cent of the workers, collective bargaining rights should be granted to the existing unions, at least on behalf of their own members. Similarly, the

Committee notes that a trade union meeting the 50 per cent criterion cannot bargain if it does not represent at least 10 per cent of employees engaged in a given branch of activity. ***The Committee expresses the hope that the Government will take the necessary measures to eliminate the dual requirement in 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, and requests it to transmit all information relevant to the progress made in amending section 12 of Act No. 2822.***

In addition, in its previous comments, the Committee noted that, according to comments submitted directly by the DISK, the Ministry of Labour and Social Security did not mention this organization in its statistics published on 17 July 2003, although it had reached the 10 per cent requirement in its branch of activity, and thus prevented the organization from participating in the collective bargaining process. Similar representations have been made by the DISK concerning some of its affiliates. The Committee noted that, in its reply, the Government referred only to the statistics published in respect of one of the DISK's affiliates (Sosyal-İŞ), and which were eventually rectified by the Ministry of Labour and Social Security as a result of an objection raised by the union concerned before the courts. The Government indicates in its report that published statistics are based on union memberships reported by unions and that the unions concerned have the right to object to these statistics in the labour court of Ankara. The Government further indicates that, as confederations are not bargaining agents, there is no requirement for the DISK to represent 10 per cent of workers in a branch of activity. The Committee takes note of this information.

In a communication by the DISK, transmitted by the ICFTU on 30 August 2005, the DISK mentions that, as one of its affiliated trade unions, (DEV-SAGLIK İŞ – health workers' union) did not reach the 10 per cent sector threshold, it had to sign a protocol and not a collective agreement. The Ministry has asked for the annulment of this protocol on the basis that the DEV-SAGLIK İŞ had not exceeded the 10 per cent threshold. In response, the Government refers to the statistics published on the DEV-SAGLIK İŞ. ***Recalling that, under Article 4 governments should take measures appropriate to national conditions to encourage and promote the full development and utilization of voluntary negotiation by means of collective bargaining, the Committee requests the Government to ensure that, in the absence of a representative union, unions are able to bargain on behalf of their own members and to indicate the measures taken or envisaged to amend the relevant legislation in this respect.***

2. *Collective bargaining in the public service.* In its previous comments (see 2002 observation), the Committee had requested the Government to provide details on the role and functions of the Supreme Administrative Committee, the Institution Administrative Committees and the Public Employers Board during collective bargaining. The Committee noted that the Government had not addressed the issue of the scope of the negotiations but had given some explanations about the role and function of the Supreme Administrative Committee and the Institution Administrative Committees. In its latest report, the Government gives indications about the Public Employers Board. The Committee notes that the parties to the negotiation are, on the one hand, the Public Employers Board and, on the other, unions for each branch of service and their confederations. The Public Employers Board is the negotiating agent under section 3(h) of Act No. 4688 as it defines the term "collective negotiation", for the purposes of the Act, as the negotiation between the Public Employers Board and the competent public servants' trade unions and their higher organizations. The Public Employers Board and the unions and confederations concerned meet on 15 August of each year (section 32) and collective negotiation starts when the Public Employers Board presents the relevant information and documents on the matters within the scope of collective negotiation, taking into account also the proposals made by the Supreme Administrative Board (section 33). Under the provisions of section 33, parties to the negotiation present their proposals which shall be the basis of the negotiation and shall form its agenda. Principles governing the negotiation shall be determined by the parties. In accordance with the provisions of article 53 of the Constitution and the provisions of section 34 of the said Act, when agreement has been reached by the abovementioned parties, a text of the agreement is submitted to the Council of Ministers so that the appropriate administrative or legal arrangements can be made. Scope of the negotiations includes the coefficient and indicators, salary and wages, any kind of pay increases and compensations, overtime pay, travel allowances, bonuses, house allowance, birth, death and family allowances, medical help and funeral expenses, food and clothing allowances to be applied to the public servants, as well as other allowances of this nature that increase effectiveness and productivity (section 28). In its latest comments, the Committee noted that the Public Employers Board is composed of representatives of the Prime Minister, the Ministry of Finances and of the Treasury, as well as of the public employers' organization. The Committee recalls that legislative provisions which give the financial authorities the right to participate in collective bargaining alongside the direct employer are compatible with the Convention, provided they leave a significant role to collective bargaining (see the General Survey on freedom of association and collective bargaining, 1994, paragraph 263). ***The Committee once again requests the Government to explain the manner in which the direct employer participates in the negotiations alongside the financial authorities.***

Further, the Committee recalls that measures taken unilaterally by the authorities to restrict the scope of the negotiable issues are often incompatible with the Convention; tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining, are a particularly appropriate method to resolve these difficulties (see General Survey, op. cit., paragraph 250). While noting the Government's indications that discussions at the level of the Supreme Administrative Committee and the Institutions Administrative Committees relate to conditions of work and the rights and duties of public employees, the Committee underlined that section 28 quite clearly limits the scope of the

negotiations to financial issues. ***It therefore requests the Government to take the necessary measures to amend section 28 in a manner compatible with Article 4 of the Convention.***

3. *Comments of the TURKIYE-KAMU-SEN.* With respect to the formalities required for the approval of the collective agreement, the Committee takes note of the observations of the Government dated 19 July 2006, regarding the communication of the TURKIYE-KAMU-SEN, dated 9 February 2006. In its communication, the TURKIYE-KAMU-SEN states that there are obstacles to union activities as section 34 of Act No. 4688 stipulates that, if an agreement is reached during the negotiation process, the agreed text shall be submitted to the Council of Ministers for the appropriate administrative, executive and legal arrangements to be taken within three months and the draft bills shall be submitted to the Turkish Grand National Assembly for enactment. According to the TURKIYE-KAMU-SEN, this amounts to a restriction of the efficient accession of both unions and public employees in the collective bargaining process and they ask the Government to provide for more objective and efficient regulations from the Ministry of Labour and Social Security in order to clarify the contributions of the unions and the public employees in the collective bargaining. The Government does not share this view and insists that there is no such restriction emanating from the said provision, either on the legal obligations or on the involvement of the unions in the negotiating process. The Committee recalls that, while the discretionary power of the authorities to approve collective agreements is by its very spirit contrary to the principle of voluntary bargaining, legislation stipulating that collective agreements must be submitted for approval to the administrative authority, the labour authorities or the labour tribunal before coming into force is compatible with the Convention provided that the national legislation merely stipulates that approval may be refused if the collective agreement has a procedural flaw or does not conform to the minimum standards laid down in the general labour legislation (see General Survey, op. cit. paragraphs 251-252). ***The Committee requests the Government to inform it of the manner in which section 34 is applied in practice and to ensure that it is not applied in any way that gives the authorities discretionary power to approve collective agreements.***

Article 6. Public servants engaged in the administration of the State. In its previous comments, the Committee noted that sections 3(a) and 15 of Act No. 4688 deny several categories of public servants the right to organize, and consequently the right to collective bargaining. The definition of a public employee in section 3(a) refers only to those who are permanently employed and have finished their trial periods. Section 15 lists a number of public employees (such as lawyers, civilian civil servants at the Ministry of National Defence and the Turkish armed forces, employees at penal institutions, etc.) who are prohibited from joining trade unions. The Committee requested the Government to take the necessary measures to amend sections 3(a) and 15 so that public servants, other than those engaged in the administration of the State, are fully ensured the right to collective bargaining in accordance with the Convention. In its previous comments, the Committee noted with interest the Government's indication that the draft Bill amending Act No. 4688 would remove the reference to the "trial period" and that the definition of "public employees" would be revised so as to include, in particular, special security personnel. Nevertheless, from the information provided by the Government, it seemed that public employees holding positions of trust would remain outside the scope of Act No. 4688. The Committee recalls that a distinction must be drawn between, on the one hand, public servants who by their functions are directly employed in the administration of the State (for example, in some countries, civil servants employed in government ministries and other comparable bodies, as well as ancillary staff), who may be excluded from the scope of the Convention and, on the other hand, all other persons employed by the Government, by public enterprises or by autonomous public institutions, who should benefit from the guarantees provided for in the Convention (see General Survey, op. cit., paragraph 200). ***The Committee expresses once again the firm hope that the revision of sections 3(a) and 15 of Act No. 4688 will take into account the comments made above and requests the Government to submit with its next report the text of the relevant amendments.***

Comments of the ICFTU. The Committee notes the ICFTU's comments concerning several issues already raised in previous observations. The observations underline, however, violations of the Convention, such as bargaining obstructions in the bakery sector leaving 2,500 bakers without protection; anti-union discrimination (for example, in 2005, 520 workers in the public sector have been transferred for no other reason than their trade union membership and 164 members of the DISK-affiliated United Metal Workers' Union were dismissed and 275 members were forced to resign); anti-union harassment; police violence against trade unionists during a peaceful demonstration on 26 November 2005 (17 injured, ten arrested); police violence against workers, their wives and children and arrests of trade unionists during a protest action on 20 July 2005; pressure on local authorities not to implement 130 or so collective agreements and order to workers to pay back their wages obtained as a result of a collective agreement. ***The Committee requests the Government to transmit its observations on these latest comments of the ICFTU.***

The Committee expresses once again the hope that, in the forthcoming legislative reforms concerning collective bargaining, the comments made above will be fully taken into account. The Committee once again recalls that ILO technical assistance is available in this regard should the Government so desire.

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

Uganda

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1963)

The Committee notes the Government's report.

Scope of the Convention. In its previous comments the Committee had drawn the Government's attention to the need to amend sections 8(3) and 19(e) of the Trade Union Act (TUA) of 2000, which provided, respectively, for an excessively high minimum membership requirement of 1,000 members to form a union, and a representation requirement of 51 per cent of the employees concerned for a union to be recognized and granted exclusive bargaining rights. The Committee had also requested the Government to amend the TUA so as to remove the exclusion of prison staff from trade union membership. In this connection, the Committee notes with interest the entering into force, on 7 August 2006, of Labour Unions Act No. 7 (LUA) of 2006. The Labour Unions Act repeals the TUA, thereby removing the excessive requirements for trade union formation and recognition noted above. The Committee further notes with satisfaction that section 2 of the LUA extends the rights guaranteed under the Act, namely the right to organize and to collective bargaining, to all employees – including prison staff – except members of the Uganda Peoples' Defence Forces.

Article 4. Promotion of collective bargaining. The Committee notes that section 7 of the LUA sets forth the lawful purposes for which trade union federations may be established. The said purposes include, inter alia: the formulation of policy relating to the proper management of labour unions and the general welfare of employees; the planning and administration of workers' education programmes; and consulting on all matters relating to labour union affairs. Noting that the lawful purposes delineated under section 7 of the LUA does not include collective bargaining, the Committee recalls that the right to collective bargaining should also be granted to federations and confederations of trade unions (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 249). ***In this connection, the Committee requests the Government to confirm whether the right of trade union federations to engage in collective bargaining is assured in the LUA or in other legislation.***

Compulsory arbitration. The Committee notes that, under section 5(3) of the Labour Disputes (Arbitration and Settlement) Act of 2006, in cases where a labour dispute reported to a labour officer is not referred to the Industrial Court within eight weeks from the time the report is made, any of the parties or both the parties to the dispute may refer the dispute to the Industrial Court. Section 27 of the Act, the Committee further notes, empowers the Minister to refer disputes to the Industrial Court where one or both parties to a dispute refuse to comply with the recommendations of the report issued by a board of inquiry. In this connection, the Committee recalls that recourse to compulsory arbitration is acceptable only for: (1) workers in essential services, in the strict sense of the term; and (2) public employees engaged in the administration of the State. Otherwise, provisions that permit the authorities to impose compulsory arbitration, or allow one party unilaterally to submit a dispute to the authorities for arbitration, run counter to the principle of the voluntary negotiation of collective agreements enshrined in *Article 4 of the Convention*. ***The Committee requests the Government to amend the above legislation so as to bring it into conformity with the Convention.***

Comments of the International Confederation of Free Trade Unions (ICFTU). The Committee notes the comments of the ICFTU dated 10 August 2006. The ICFTU's comments concern legislative issues previously raised by the Committee and problems regarding the application of the Convention in practice, including the refusal to recognize and negotiate with trade unions in the hotel, textile, construction and transport sectors. In this regard, the Committee takes note of the Government's indication that there have been positive developments concerning the attitude of employers towards union recognition and negotiations with unions following the adoption of the Labour Unions Act and other new legislation, including Employment Act No. 6 and Labour Disputes (Arbitration and Settlement) Act No. 8. A number of employers, including employers in the textile and hotel industries, are negotiating recognition agreements with unions, and of these employers several are in the final stages of concluding collective bargaining agreements. The Government adds that a number of sensitization workshops have been led by workers' and employers' organizations and the Minister of State for Labour, Employment and Industrial Relations is undertaking a tour of some industries, in which about 20 hotels will be visited with a view to, inter alia, create awareness on the labour laws and encourage employers to recognize unions. The Committee appreciates this information. ***It requests the Government to continue to pursue its endeavours to promote collective bargaining in the abovementioned industries and to keep it informed of the progress made in this regard.***

Ukraine

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee notes the Government's report. It further notes the Government's reply to the comments made by the Confederation of Free Trade Unions of Ukraine (KSPU) and by the Federation of Trade Unions of Ukraine (FPU), examined in the 2005 observation, concerning legislative issues previously raised by the Committee.

The Committee notes the comments made by the International Confederation of Free Trade Unions (ICFTU) in its communications dated 31 August 2005 and 10 August 2006 on the application of the Convention which concern the issue of trade union registration, restrictions on the right to strike, as well as interference in trade union activities and harassment of trade unionists in practice. ***While noting that some of these matters were dealt with in Case No. 2388 (see 337th and 342nd Reports), pending before the Committee on Freedom of Association, the Committee nevertheless requests the Government to transmit its observations thereon with its next report.***

The Committee notes the last examination of Case No. 2038 by the Committee on Freedom of Association (see 338th Report).

1. *Law on employers' organizations.* The Committee recalls that in its previous comments on the Law, it requested the Government to repeal section 31 of the Law, which provided that the bodies of the state authority shall exercise control over economic activities of employers' organizations and their associations. The Committee notes the Government's statement that employers' organizations cannot be forced to implement instructions or orders which are not provided for by law or which are of a criminal nature. The Committee recalls, however, that the right of workers' and employers' organizations to organize their administration without interference by the public authorities includes, in particular, autonomy and financial independence and the protection of the assets and property of these organizations (see 1994 General Survey on freedom of association and collective bargaining, paragraph 124). ***The Committee therefore requests that the Government repeal this provision. Noting that the draft amendments to the Law are being prepared, the Committee hopes that the Committee's comments in this regard will be taken into account and requests the Government to keep it informed of any development in this respect.***

As to the Committee's previous request to indicate the manner in which employers' organizations are representing employers at national level, the Committee notes the Government's detailed explanation and reference to the Law on collective agreements. The Committee notes in particular the Government's indication that, at the national level, employers are represented by employers' organizations with all-Ukrainian status. If there is more than one employers' organization, they have an option of either setting up a single representative body for the purpose of collective bargaining or delegating the authority to one employers' organization.

2. *Trade union registration.* The Committee recalls that in its previous comments, it had noted the contradiction between section 3 of the Act of Ukraine on the State Registration of Legal Persons and Physical Persons-entrepreneurs (2003), providing that "the associations of citizens (including trade unions), for which special conditions for state registration have been established under the Act, shall obtain the status of legal person only after their state registration" and section 87 of the Civil Code (2003), according to which, an organization acquires its rights of legal personality from the moment of its registration, on the one hand, and section 16 of the Trade Unions Act, as amended in June 2003, providing that a trade union acquires the rights of a legal person from the moment of the approval of its statute and that a legalizing authority confirms the status of a trade union and no longer has a discretionary power to refuse to legalize a trade union, on the other. The Committee notes with interest the Government's statement that, on 19 October 2006, the Act to Amend the Act of Ukraine on the State Registration of Legal Persons and Physical Persons-entrepreneurs will enter into force. Under this Act, the reference to trade unions will be deleted from section 3. The Government does not, however, provide its comments on section 87 of the Civil Code. ***The Committee requests the Government to provide a copy of the Act of 19 October 2006 and to indicate the measures taken or envisaged to further amend section 87 of the Civil Code so as to eliminate the contradiction within the national legislation and so as to fully guarantee the right of workers to establish their organizations without previous authorization.***

3. *Right of workers' organizations to organize their activities freely.* The Committee had previously requested the Government to amend section 19 of the Act on the procedure for the settlement of collective labour disputes, which provided that a decision to call a strike had to be supported by a majority of the workers or two-thirds of the delegates of a conference. The Committee notes the Government's indication that the provision concerning the adoption of the decision by the majority of workers applies to enterprises where the number of workers is such as to allow for the possibility in practice of holding a workers' assembly. If, however, the enterprise employs a large number of workers, they shall elect delegates to a conference, setting the number of delegates representing a given number of workers. In this case, the decision to declare a strike shall be taken by two-thirds of the conference delegates. There is a clear distinction between small enterprises, in which workers' assemblies are held, and large enterprises, in which conferences of workers' delegates are held. The Government therefore asserts that there is no risk of any restriction on the right to strike. While taking note of the Government's explanation, the Committee considers that if the national legislation requires a vote before a strike can be held, it should ensure that account is taken only of the votes cast and majority fixed at a reasonable level (see General Survey, op. cit., paragraph 170). ***The Committee once again asks the Government to take the necessary measures to amend section 19 of the Act on the procedure for the settlement of collective labour disputes accordingly.***

In its previous observation, the Committee requested the Government to provide information on the practical application of article 293 of the Penal Code according to which organized group actions that seriously disturb public order or significantly disrupt operations of public transport, any enterprise, institution or organization and active participation therein are punishable by a fine of up to 50 minimum wages or imprisonment for a term of up to six months and, in particular, in respect of an industrial action. ***In view of the absence of the Government's reply in this respect, the Committee reiterates its request.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1956)

The Committee notes the Government's report.

The Committee notes the communication from the Confederation of Free Trade Unions of Lugansk Region (KSPLO) dated 6 April 2006, alleging refusal of the Zorinsk city council to register a collective agreement signed by the KSPLO and the administration of the "Nikanor Novaya" mine, and the communication of the Federation of Trade Unions of Ukraine (FPU) dated 7 June 2006, submitting general comments on the application of the provisions of the Convention and alleging unilateral breach of the General Agreement by the Government, and the Government's observations thereon. In particular, the Committee notes with interest that the collective agreement at the "Nikanor Novaya" mine was duly registered by the relevant authorities. It further notes with interest the Government's statement that in order to increase the role of trade unions and employer's organizations in formulating national economic and social policy and further developing social dialogue, the National Tripartite Socio-Economic Council was established and held its first meeting on 15 June 2006.

The Committee notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in its communication dated 10 August 2006. The Committee notes that the ICFTU alleges that trade union members are often subject to discrimination and that while anti-union discrimination is prohibited under the law and that the Criminal Code provides for sanctions of violation of trade union rights, no employer has ever been held liable under the provisions of the Code even when the courts have recognized cases of discrimination against trade union members. The ICFTU further alleges cases of employers' interference in trade union activities and the refusal of employers to bargain collectively with independent trade unions. ***The Committee requests the Government to provide its observations thereon.***

The Committee further notes the Government's indication that the work on drafting of the new Labour Code was still ongoing and the draft chapter on collective agreements was sent for consideration to the Committee on social and labour issues of the Supreme Council of Ukraine. ***Noting with interest that the Government has accepted the technical assistance of the ILO in this respect, the Committee requests the Government to keep it informed of the developments regarding the adoption of the new Labour Code. It trusts that the new legislation will be in full conformity with the Convention.***

United Kingdom

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1949)

The Committee notes the Government's report and the comments submitted by the International Confederation of Free Trade Unions (ICFTU) and the Trades Union Congress (TUC) in communications dated 10 August and 31 August 2006, respectively. ***The Committee requests the Government to send its observations thereon.***

Article 3 of the Convention. Right of workers' organizations to draw up their constitutions and rules without interference by the public authorities. The Committee notes the comment by the TUC that, although section 174 of the Trade Unions and Labour Relations Act (TULRA) was amended by the Employment Relations Act, 2004 (ERA) so as to allow unions to exclude or expel individuals on account of conduct which "consists of activities undertaken by an individual as a member of a political party", this amendment does not fully address freedom of association concerns as it is still unlawful to exclude or expel an individual because he or she is a member of an extremist political party with principles and policies wholly repugnant to the trade union. The TUC indicates, moreover, that an individual excluded or expelled wholly because of his or her membership of an extremist political party is entitled automatically to a minimum level of compensation, whether or not any loss has been suffered; in this regard, the TUC indicates that far-right extremist organizations have encouraged members to infiltrate trade unions and gives an example where the expulsion of such a person gave rise to an enforced compensation order by an employment tribunal against the union. The Committee recalls that, in previous comments, it had asked the Government to keep it informed of developments in more fully ensuring the right of trade unions to draw up their rules and formulate their programmes without interference from the authorities. ***In light of the serious concerns expressed by the TUC, the Committee requests the Government to consider taking measures as a matter of urgency to amend section 174 of the TULRA so as to give fuller effect to this right of unions and to indicate the measures taken or envisaged in its next report. It further requests the Government to reply to the concern raised by the TUC over the obligation to provide compensation for each expulsion regardless of whether any loss had been suffered.***

Immunities in respect of civil liability for strikes and other industrial action (sections 223 and 224 of the TULRA). The Committee had previously asked the Government to keep it informed of developments regarding the right of workers to take industrial action in relation to matters which affect them even though, in certain cases, the direct employer may not be party to the dispute, and to participate in sympathy strikes provided the initial strike they are supporting is itself lawful. The Committee takes note of the Government's indication that there are no new developments respecting this matter. ***In this connection the Committee recalls once again that workers should be able to participate in sympathy strikes, provided the initial strike they are supporting is lawful, and to take industrial action in relation to matters which affect***

them, even though the direct employer may not be a party to the dispute, and requests the Government to take the necessary measures to amend sections 223 and 224 in keeping with this principle.

The Committee is raising additional points in a request directly addressed to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1950)***

The Committee notes the Government's report and the comments submitted by the International Confederation of Free Trade Unions (ICFTU) and the Trades Union Congress (TUC) in communications dated 10 August and 31 August 2006, respectively.

Articles 1, 2 and 3 of the Convention. The Committee notes the TUC's indication that, although the Employment Relations Act of 2004 provided protection against acts of anti-union discrimination and interference on the part of employers, these protections apply only after an application for recognition under the statutory procedure has been made. The TUC further states that the legislation dealing with unfair practices thus only applies during a ballot period, whereas a lot of the misconduct by an employer may take place at a much earlier stage where the union is trying to organize, recruit and build up some kind of structure: it is at this time, when the union is trying to establish itself, that it is most vulnerable and therefore in need of stronger protection than is currently provided. ***Recalling that the provisions of the Convention provide that appropriate machinery shall be established in order to guarantee adequate protection against both acts of anti-union discrimination and acts of interference in trade union affairs, the Committee asks the Government to indicate the measures taken or envisaged to ensure that trade unions are afforded these protections, even before they have applied for recognition under the statutory procedure.***

Article 4 of the Convention. 1. The Committee takes note of the TUC's statement that the statutory procedure for union recognition requires a union to have a majority of the workers in the bargaining unit as members, or a majority vote in a ballot in which at least 40 per cent of the bargaining unit must vote in favour of union recognition. In this respect, the Committee recalls that problems of conformity with the Convention may arise when the law stipulates that a trade union must receive the support of 50 per cent of the members of a bargaining unit to be recognized as a bargaining agent, as a majority union which fails to secure this absolute majority is thus denied the possibility of bargaining. The Committee considers that, under such a system, if no union covers 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 General Survey of 1994 on freedom of association and collective bargaining, paragraph 241). ***The Committee requests the Government to indicate the measures taken or envisaged to ensure that, in cases where no union has been able to obtain the required majority for bargaining, the organizations concerned should at least be able to conclude a collective agreement on behalf of their own members.***

2. The Committee notes the TUC's indication that businesses employing less than 21 workers are excluded from the statutory procedure for union recognition, the effect of which has been to deny the employees of these small businesses the right to be represented by a trade union. The TUC states that workers employed in small businesses are free to join a union, but the fact that it has no legal right to be recognized by an employer due to the exemption from the statutory procedure acts as a disincentive to workers joining one. The TUC also indicates that this exclusion is of major concern in the printing industry, where there are a large number of small businesses. ***In the light of the concerns expressed above by the TUC, the Committee requests the Government to indicate in its next report the measures taken or envisaged to further promote collective bargaining in small businesses.***

3. The Committee notes the TUC's indication that the statutory procedure for recognition does not apply where there is already a voluntary recognition agreement between an employer and a trade union. The TUC expresses its concern that an application may not be processed under the statutory procedure where there is a recognition agreement with a trade union that is not independent. Although there is a procedure to derecognize trade unions that are not independent, the TUC states that it is not effective and has never been used successfully. The TUC indicates that in practice, therefore, this allows an employer to set up an in-house company union and extend to it recognition rights, thereby preventing an application by an independent trade union from being made, and refers to the case of POA and Securicor Custodial Services Ltd, where the union was denied the right to recognition – even though it had the support of a majority of members in the unit – as the employer had concluded a recognition agreement with a staff association. ***The Committee requests the Government to reply to the TUC's concerns respecting this issue.***

Guernsey

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

The Committee takes note of the Government's report.

Article 1 of the Convention. Protection against anti-union discrimination. The Committee notes with interest that following its previous comments, section 22 of the draft Law entitled "The Employment Protection (Guernsey) (Amendment) Law, 2005" increases the amount of an award for unfair dismissal from three to six months pay. ***The Committee hopes that this draft Law will be adopted in the near future and requests the Government to keep it informed in this respect.***

Isle of Man

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

The Committee notes the Government's report.

The Committee notes that the Employment Bill 2005 has passed through the legislative branches.

Article 1 of the Convention. The Committee's previous comments concerned the need to provide adequate protection against anti-union discrimination in the course of employment. The Committee notes with satisfaction that the new legislation provides adequate protection against anti-union discrimination in the course of employment, including dismissal and other prejudicial acts, and provides sufficiently effective and dissuasive sanctions for such discrimination, including compensation and reinstatement. The Committee notes in particular that in its report, the Government insists on: (1) the enhanced protection against discrimination on trade union grounds at recruitment, during employment and at termination of employment; (2) the enhanced powers of the Employment Tribunal, including new power to order re-employment of employees whom it finds to have been unfairly dismissed; and (3) the enhanced protection for employees who take industrial action including: extending the existing right of employees who have been selectively dismissed to claim unfair dismissal to cover employees with less than one year's service, and giving employees a new right to complain to the Employment Tribunal if they are subjected to dismissal or detriment for taking lawfully organized, official industrial action lasting up to four weeks.

Uruguay

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1954)***

The Committee takes note of the Government's report.

1. *Comments of the PIT-CNT.* The Committee recalls that, reacting to comments by the PIT-CNT, it asked the Government in its last observation: (1) to provide information on the average time span between the initiation of an investigation of a complaint of anti-union discrimination and the imposition of sanctions or the closure of the case and to state the total number of such complaints lodged in the last two years, and (2) to provide information on the number of collective agreements by enterprise and by branch, including in the public sector and in the public administration, with an indication of the sectors and number of workers covered and, if possible, a full list of the collective agreements concluded in the country.

The Committee notes that, according to the Government: (1) measures have been taken (more employees have been appointed and trained, consultation and reception areas for complainants have been opened in the General Labour Inspectorate, and a database set up) to ensure that complaints of breach of trade union rights are dealt with as promptly as possible and that as a result of the measures, they are now processed within 4 months on average; (2) in 2005, 36 complaints were filed, 25 were resolved, penalties were applied in one case and 11 are pending. In 2006, at 6 June 15 complaints had been filed, seven resolved, no penalties had been applied and eight were pending; and (3) with regard to collective bargaining, the Wages Councils were convened. The sectors involved were industry, commerce and services, and the rural and public sectors.

2. *Article 1 of the Convention. Protection from anti-union discrimination.* In its previous observation, the Committee took note of Decree No. 186/004 which provides, in section 6, that acts of anti-union discrimination are to be treated as very serious offences, for which substantial penalties are envisaged in sections 13 to 16, which may even, in the event of repeated offences, result in the temporary closure of the enterprise. It also noted that there is no specific procedure for cases of trade union repression, and complaints are therefore dealt with under Decree No. 500/91, which covers all types of administrative procedures. The Committee asked the Government to take steps to ensure that complaints of violations of trade union rights are examined as rapidly as possible. The Committee notes with interest the adoption of Act No. 17940, which provides for the invalidation of any act or omission, the aim of which is to make the worker's employment contingent on his not joining or his resignation from a union, or to dismiss a worker or cause him any other form of injury because of his membership of a union or his participation in union activities. The Committee notes with particular interest that the abovementioned Act also provides for the worker to be reinstated, by means of a special procedure.

Article 4. Promotion of collective bargaining. In its previous observation, the Committee asks the Government to inform it of the number of collective or other agreements concluded in the public sector, indicating the institutions concerned. The Committee notes with interest that, according to the Government three bodies have been set up for negotiating at a general level: the Higher Tripartite Council, the Higher Rural Council and the Higher Council for the Public Sector. It notes that as a consequence, 20 groups of wage committees have been set up covering more than 180 negotiating areas and that in 95 per cent of them, agreement was reached. Furthermore, a framework agreement was concluded in the public sector.

Bolivarian Republic of Venezuela

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1982)

The Committee notes the Government's report, the report of the high-level mission undertaken in the Bolivarian Republic of Venezuela from 23 to 29 January 2006, the discussion in June 2006 in the Conference Committee and finally the comments of the International Confederation of Free Trade Unions (ICFTU) dated 12 July 2006 on the application of the Convention.

The Committee also notes Cases Nos. 2254 and 2422, which are currently being examined by the Committee on Freedom of Association.

Pending issues

The Committee notes that the pending issues relate to:

- (1) the need to adopt the Bill to amend the Basic Labour Act so as to eliminate the restrictions placed on the exercise of the rights granted by the Convention to workers' and employers' organizations. On this issue, the Committee made the following comments in 2005:

The Committee previously noted that a Bill to amend the Basic Labour Act took account of requests for amendment that it had made on the following points: (1) it deletes sections 408 and 409 (over-detailed enumeration of the mandatory functions and purposes of workers' and employers' organizations); (2) it reduces from 10 to 5 years the required period of residence before a foreign worker may hold office in an executive body of a trade union organization; (3) it reduces from 100 to 40 the number of workers required to establish a trade union of independent workers; (4) it reduces from ten to four the number of employers required to establish an employers' organization; (5) it provides that the technical cooperation and logistical support of the electoral authority (National Electoral Council) for the organization of elections to executive bodies of trade unions shall be provided only where so requested by the trade union organizations in accordance with the provisions of their statutes, and that elections held without the participation of the National Electoral Council and which comply with the statutes of the trade unions concerned shall have full legal effect once the corresponding reports are submitted to the appropriate labour inspectorate. The Committee notes that the authorities of the Ministry and of the legislative authority support the position set out in this provision of the Bill and that, in practice, trade unions have now held elections without the participation of the National Electoral Council. The Committee also noted in its previous comments that the Bill provided that "in accordance with the constitutional principle of democratic changeover, the executive board of a trade union organization shall discharge its functions during the period established by the statutes of the organization, but in no case may a period in excess of three years be established". The Committee noted from the report of the direct contacts mission (13-15 October 2004) that the Government had emphasized that re-election of trade union leaders raised no problems in practice and had cited several examples. The Committee hoped that the Parliament would include in the Bill a provision explicitly allowing the re-election of trade union leaders. The Committee emphasizes that the Government has been referring to draft reforms for years and expresses the firm hope that the above Bill will be adopted in the near future.

- (2) the need for the National Electoral Council (CNE), which is not a judicial body, to cease interfering in trade union elections and to no longer be empowered to annul them, and the need for the statute for the election of executive bodies of trade union organizations, which accords a preponderant role to the CNE in the various stages of (trade union) elections, to be amended or repealed;
- (3) the need for inclusive social dialogue, to which the Government refers, to take fully into account the representativity of workers' and employers' organizations and the need to intensify such dialogue;
- (4) the request by the Committee for the Government to reply to the comments made by the ICFTU in 2005 relating to violations of trade union rights in practice; and
- (5) the request by the Conference Committee for the Government to lift the restrictions on the freedom of movement placed on certain leaders of the Venezuelan Federation of Chambers of Commerce and Manufacturers' Associations (FEDECAMARAS).

High-level mission

The Committee notes, from the report of the high-level mission, that its objectives were to:

- (1) examine ways of accelerating the adoption of the Bill to amend the Basic Labour Act. Also to examine the possibility of introducing into the Bill a specific section explicitly guaranteeing the right of trade union leaders to re-election;
- (2) explore possibilities of intensifying social dialogue, particularly with the Confederation of Workers of Venezuela (CTV) and FEDECAMARAS (a dialogue which is not only confined to holding meetings, but also includes reaching agreements in so far as possible);
- (3) obtain information on the holding of trade union elections and emphasize the need for the trade union structure to remain clearly delimited. In this respect, the mission could propose the holding of a meeting between the Government and trade union federations, possibly with ILO technical assistance, to establish the necessary conditions to ensure that the next trade union elections determine objectively and precisely the representativity of each federation;
- (4) examine the issue of the intervention of the CNE in trade union elections as its statutes assign it an important role in such elections (including the resolution of appeals), whereas its intervention should be confined to those cases in which it is explicitly requested by the trade union organizations;
- (5) investigate allegations of favouritism and lack of impartiality by the Government with regard to certain workers' or employers' organizations and the real or alleged creation of parallel trade union organizations;

- (6) obtain information on the situation with regard to the legal proceedings against employers' leaders (particularly Mr Carlos Fernández, who is in exile, and Ms Albis Muñoz, former leaders of FEDECAMARAS, both referred to in the report of the Committee on the Application of Standards) and workers' leaders subject to legal proceedings, and particularly Mr Carlos Ortega, former President of the CTV, who is in prison after being convicted by the first level judicial authority; and
- (7) offer ILO technical cooperation in the fields referred to above with a view to overcoming existing difficulties.

The conclusions of the mission are reproduced below:

The members of the mission wish firstly to express their gratitude to the Government of the Bolivarian Republic of Venezuela for the cooperation provided and the efforts made both in establishing the agenda and in ensuring that the various planned interviews could take place.

The mission was favourably received by all those interviewed, who considered that its function was opportune and would contribute to taking advantage of the political space that currently exists in the Bolivarian Republic of Venezuela to "turn the page" and take steps towards the future for the benefit of the country.

The members of the mission maintained an attitude of openness and dialogue and placed emphasis on their desire to listen to the opinions and understand the positions of the various parties involved, with the objective of placing the ILO in the best possible position to provide appropriate technical assistance, so that the difficulties which persist in the Bolivarian Republic of Venezuela in achieving full compliance and the free exercise of freedom of association could be resolved.

The mission examined the documents provided by the persons interviewed during the visit and took note of them. The mission presents its conclusions on the various objectives enumerated in section I.

With regard to the first objective, relating to examining possible means of accelerating the adoption of the Bill to amend the Basic Labour Act which meets practically all the points raised by the Committee of Experts in relation to Convention No. 87 and has been approved in first reading by the National Assembly, the mission observed that it still has not been adopted. The mission noted that, according to the Government, the process of renewing the deputies in the National Assembly, which took place in December 2005, may have given rise to the delay in its adoption. The mission also noted that, according to all of the institutions and organizations interviewed, the debate on the subjects of social security, and particularly the pensions scheme and the termination of contracts of employment, on which there is no agreement between the social partners, could continue to delay the adoption of the Bill. The mission observed that there is consensus with regard to the provisions of the Bill relating to freedom of association; nevertheless, according to the Minister of Labour, members of the National Assembly and the social partners, the conditions do not exist for a partial reform of the Act only covering these points. In these conditions, with a view to facilitating the adoption of the Bill, the mission offered the Office's technical assistance in the field of social security, which was accepted by the Minister of Labour, the National Assembly and the social partners. During the mission's visit, the question of the reform of the Basic Labour Act was included on the Parliamentary Agenda for 2006 as a priority item. The mission recalls that the legislative amendments in question have been requested by the Committee of Experts for many years and trusts that the text will in practice be adopted during the course of the year.

In relation to the possibility of re-electing trade union leaders (article 95 of the Constitution), the mission did not observe progress in relation to the request by the Committee of Experts for the inclusion in the Bill to amend the Basic Labour Act of an explicit provision permitting such re-election. The mission noted that the President of the Supreme Court of Justice indicated that he could not give an opinion on the interpretation of article 95 of the Constitution in terms of whether it permitted or prohibited the re-election of trade union officials before the adoption of the reform of the Basic Labour Act, as the issue might subsequently come before the Supreme Court of Justice in the form of an application for it to be found unconstitutional. The members of the National Assembly referred to the provision in the Bill to amend the Basic Labour Act which provides that "in accordance with the constitutional principle of democratic changeover, the executive board of a trade union organization shall discharge its functions during the period established by the statutes of the organization, but in no case may a period in excess of three years be established", noting that it does not prohibit re-election, but sets a maximum period of time for the duration of the mandate for trade union officers. The mission nevertheless observed that this provision has already been examined by the Committee of Experts, which considered that in any event the possibility of the re-election of trade union leaders should be explicitly included in the Bill and requested the National Assembly to take this aspect into account when discussing the reform of the Basic Labour Act.

Concerning the mission's second objective of exploring the possibilities for strengthening social dialogue, it noted that there is a readiness in the Government and the social partners to embark upon social dialogue, which should have a broad social basis and include all actors. There is also consensus that the Government has organized meetings which have been attended by all the social partners, including the CTV and FEDECAMARAS to discuss, for example, the regulations to be adopted under various laws. Nevertheless, the mission noted that the CTV and the CGT emphasized that there is no social dialogue and that the consultations held are merely formal without any intention of taking into account the opinion of the parties consulted, or they are convened for very isolated issues, such as the situation of emergency which occurred in the state of Vargas as a result of the collapse of the road transport sector. The mission also observed that FEDECAMARAS maintained that it had entered into dialogue with the Government and that it sees possibilities for progress, but that up to now certain specific aspects of great importance have been excluded from the discussion and that the areas on which consensus has been achieved are not sufficiently relevant to be cited as examples of progress. In this respect, in the view of various organizations, subjects such as the minimum wage and unemployment insurance are decided upon unilaterally by the Government. With regard to the possibilities of strengthening social dialogue in future, the mission noted that FEDECAMARAS and the UNT referred to specific proposals for the establishment of machinery for this purpose, such as the creation of a "social forum" in which major national decisions in the field of labour could be discussed and consensus reached; the form of such a body is being examined by the social partners. The mission observes that, while there appear to be positive developments with regard to social dialogue, the structures are lacking to ensure its sustainability. The mission therefore considers that the establishment of the social forum or another similar body should be examined by the parties in the near future.

On the subject of the mission's third objective relating to obtaining information on the holding of trade union elections and emphasizing the need for trade union structures to remain clearly delimited so that the representativity of each federation can be established objectively and precisely, the mission noted with concern that, according to the Government and the trade union federations, a large number of trade union organizations are in a situation of "electoral lapse". This term, coined by the case law of the Supreme Court of Justice, refers to a trade union in which the period for which its officers were elected has lapsed. This situation, in the view of the mission, is mainly a result of the prevailing uncertainty on the manner in which elections are to be held and the role of the National Electoral Council (CNE), as well as the delay in the CNE's proceedings, resulting in the non-

recognition of the trade union for the purposes of collective bargaining, thereby making it impossible to negotiate new agreements. The mission noted that the Minister of Labour acknowledged the serious consequences of this situation which is damaging both the Government, which has no partner with whom to negotiate in the public sector, and the workers. The mission considers that the Government should adopt the necessary measures without delay to resolve this situation and, in this respect, offered the technical assistance of the Office on these matters that are closely related to the issue of the role of the CNE in trade union elections. The mission emphasized the need to establish clear, precise and objective criteria for determining the representativity of workers' and employers' organizations and also offered the technical assistance of the Office on this subject. Both offers were welcomed by the Government and the trade union federations. Nevertheless, in view of the fact that various federations, including the CTV and the UNT, are preparing to hold their elections in the first half of 2006, the mission, the Government and the social partners agree that, to be opportune and effective, such technical assistance should be provided without delay.

With regard to the mission's fourth objective relating to examining the issue of the intervention of the CNE in trade union elections as its statute assigns it an important role in such elections, whereas its intervention should be limited to those cases in which it is requested by the trade union organizations, the mission noted that the position of the Ministry of Labour with regard to the optional nature of the intervention of the CNE (set out in Ruling No. 13, published on its web site) was confirmed by the President of the Supreme Court, and acknowledged by the Coordinator of the Trade Union Affairs Commission of the CNE. The mission nevertheless observed that none of those interviewed could give a clear answer on the legal situation of trade unions which hold their elections without the intervention of the CNE and that the Minister of Labour indicated that the outcome of such elections could be challenged. The mission observed that there is a deep-rooted and manifest misunderstanding between the social partners with regard to the functions of this body and it considers that the provisions of the Constitution on the subject and the detailed regulations formulated by the CNE contribute to this confusion. The mission noted that the Coordinator of the Trade Union Affairs Commission of the CNE undertook to discuss with the directorate of the CNE the possibility of revising the resolution of 20 December 2004 (which is also the subject of a complaint presented to the Committee on Freedom of Association) in the near future. In view of the broad consensus emerging from the interviews that the role of the CNE should be limited to technical assistance provided solely at the request of the trade unions, the mission considers that there should be no difficulty for this function to be specified explicitly and unequivocally in the regulations formulated by the CNE. The mission therefore hopes that the CNE will amend the resolution of 20 December 2004 without delay. Once the optional nature of the CNE's intervention is explicitly established, so there can be no confusion in practice, the provisions of the resolution of 20 December 2004, which allow "a group of workers", without any qualification, to request the intervention of the CNE in elections, should be amended in the new regulations to prevent such an initiative being taken by a very small group of workers. This point was also made by the mission to the Coordinator of the CNE Commission referred to above, who undertook to broach the matter with the CNE directorate.

With regard to the mission's fifth objective of investigating allegations of favouritism and the lack of impartiality of the Government in relation to certain employers' and workers' organizations in terms of the real or alleged establishment of parallel trade union organizations, the mission noted the contention of the Minister of Labour that the allegations of favouritism arise out of a mistaken perception by certain partners, as the Government no longer enters into dialogue exclusively with certain partners, but enters into broad relations with all social actors. The mission also noted that various of the organizations interviewed, and particularly the CTV, CODESA, the CGT and FEDECAMARAS recognize the existence of this type of conduct. The CTV and FEDECAMARAS indicate that such conduct, when it occurs, is not part of state policy, but is the result of the action taken by certain middle-ranking public officials who raise additional administrative obstacles or grant specific advantages to certain organizations. The mission considers that in any event it is the responsibility of the Government to prevent this type of conduct and that investigations should therefore be conducted into this matter to prevent the recurrence of this type of action or the emergence of mistaken perceptions among the social partners.

In relation to the mission's sixth objective to obtain information on the situation with regard to the trials of employers' leaders (particularly Mr Carlos Fernández and Ms Albis Muñoz, former leaders of FEDECAMARAS) and trade union leaders involved in judicial proceedings, particularly Mr Carlos Ortega, former president of the CTV, the mission noted that the Minister of Labour emphasized in general terms that these individuals are subject to judicial action that is not related to their activities as employers' or workers' leaders.

With regard to the trial of Mr Carlos Ortega, former president of the CTV, the mission expressed its concern to the representatives of the Ministry of Labour with regard to the health of Mr Ortega. The mission noted that the prosecutor responsible for the case, Ms Luisa Ortega, confirmed the information received by the mission before its visit that Mr Ortega had just been convicted by the first level court to 15 years 11 months and 5 days' detention for the offences of "civil rebellion", incitement to break the law and the use of public documents. The lawyer defending Mr Ortega informed the mission that this ruling would be appealed and that there was a risk that Mr Ortega might be transferred to a prison with a lower level of security. In this respect, the prosecutor responsible for the case undertook to keep Mr Ortega in the military prison in which he is held (National Centre for Military Detainees) for as long as she was responsible for the case. During the visit, the mission received a letter from Mr Ortega indicating that he considered that he had been convicted to 15 years' imprisonment as political retaliation by the Government of President Chavez, without respecting his right to defence.

With regard to the situation of the trial of Ms Albis Muñoz, former president of FEDECAMARAS, the mission noted the information provided by prosecutor Luisa Ortega that Ms Muñoz had been charged as the principal instigator of the offence of civil rebellion for having signed the order approving the action of Mr Pedro Carmona when he assumed the function of president without complying with the National Constitution, and that her case is under investigation. In relation to the restrictions on her freedom of movement, the mission was informed that Ms Muñoz has to seek judicial authorization to travel outside the national territory but that, according to the prosecutor, such authorization is generally granted when requested.

With reference to the situation of the trial of Mr Carlos Fernández, the prosecutor informed the mission that Mr Fernández is subject to a detention order for having participated jointly with Mr Ortega in calling for the stoppage of December 2002. Mr Fernández is in exile and the trial is therefore at a standstill since, in accordance with Venezuelan law, no one may be judged in his or her absence. The mission noted that Mr Fernández is charged with the offences of "civil rebellion" and incitement to civil disobedience.

The mission notes the information provided in relation to these three cases and refers to the conclusions of the supervisory bodies in relation to these allegations.

The mission also inquired after situation in the trial of the 18,000 oil workers dismissed in 2003 by PDVSA and, on this subject, noted with concern the grave situation of a large number of these workers since, while awaiting the outcome of the

judicial and administrative proceedings, they have not received any type of benefit and, when they have found new employment, they are the victims of discrimination. The President of the Supreme Court of Justice and the Deputy Minister of Labour explained to the mission the legal situation of these workers and undertook to take measures, within their fields of competence, to accelerate the outcome of the proceedings.

With regard to the mission's seventh objective of offering ILO technical cooperation in the fields referred to above with a view to resolving existing difficulties, the mission observed that the social partners were in agreement that it was appropriate for the ILO to provide technical assistance in the following areas: developing criteria to determine the representativity of employers' and workers' organizations; strengthening social dialogue; social security and social benefits (in which area the Minister of Labour indicated that technical assistance had been requested in February 2004); occupational safety and health, particularly for the formulation of the regulations under the Act on Occupational Prevention, Working Conditions and Environment; training on international labour standards, particularly on freedom of association, for judges, members of the National Assembly, the CNE, employers, workers and labour inspectors. The Government also requested the Office's technical assistance to provide support in the process of reforming the labour administration that is being carried out in the country.

Finally, the mission trusts that the great expectations to which it has given rise and the positive spirit of cooperation which prevailed during its visit to Caracas will be maintained in the action taken as a result of its conclusions, and that the conclusions will help the Government and the social partners to continue making progress in developing mutual trust so that progress can be made in the future for the benefit of the country.

The Government's statements on the questions at stake

The Committee notes the Government's statements in its report that: (1) the progress to be achieved has to include the reform of the regulations issued under the Basic Labour Act to strengthen protection against anti-union discrimination and include in its provisions the practice advocated by the Government in relation to national social dialogue forums; (2) social dialogue has been carried out on many subjects and in many bipartite or tripartite meetings (the corresponding documentation is attached, as is the documentation of FEDECAMARAS on the same subject) with the social partners without exclusion, including FEDECAMARAS and the CTV, as well as others actors, (cooperatives, co-management programmes, etc.), covering, among other subjects, various laws and regulations (labour solvency, environment, etc.); (3) in 2005 a total of 530 trade union organizations were established and 564 collective agreements negotiated; (4) with regard to the intervention of the CNE in trade union elections, the Government hopes that the contrasting positions in relation to the CNE which have existed in the past will be resolved by the new authorities of the Council appointed in April 2006, which have been informed of the position of the ILO; at the present time, the CNE intervenes exclusively when it is requested to do so by the trade union organizations themselves (and this is the position of the Ministry of Labour); (5) with regard to the possibility of the re-election of trade union leaders, there is no problem in practice; (6) in more general terms, the modifications requested by the Committee of Experts to the Basic Labour Act are included on the 2006 agenda of the new Legislative Assembly; (7) the Government does not subscribe to the interference constituted by the conclusion of a "tripartite agreement with all the social partners", as proposed by the Conference Committee, since the question arises as to how agreements can be concluded based on practices that are already in force, and moreover the proposal is out of place and is intended to apply mechanisms used by other States to a situation which is totally different; (8) the situation of the leaders of FEDECAMARAS in terms of their freedom of movement depends on the judicial authorities, as such leaders committed common offences and marginalized themselves from Convention No. 87, as the Government has already indicated; and (9) with regard to the comments made by the ICFTU, which are modified in relation to the opinions expressed by the ICFTU in previous years and those put forward in 2006, thereby demonstrating the substantial change in the information provided by the ICFTU to the Committee of Experts on issues relating to the national situation from 1999 up to 2003 with regard to the Bolivarian Government: the current opinions of the ICFTU are very far from its earlier views, when it espoused political opinions that gave very little or almost no recognition to the policies on freedom of association that the Government had been implementing.

The ICFTU's comments

The Committee notes that in its 2006 comments the ICFTU indicates that: (1) the Bill to amend the Basic Labour Act, despite the continuous promises by the Government to the ILO, and the fact that it has been under examination for several years, has still not been adopted; the Bill takes on board the ILO's recommendations, but does not include a provision guaranteeing the possibility of the re-election of trade union leaders; (2) in accordance with the Constitution, in November 2002, section 33 of the new Basic Act on the Electoral Authority provided that the CNE is the sole competent body to organize trade union elections in compliance with their autonomy and independence, and in accordance with international treaties; section 33 continues to be in violation of freedom of association by according the CNE competence to recognize and set aside elections, accept appeals and resolve complaints; (3) the Statute for the election of trade union officers, dated 20 December 2004, regulates in a very detailed manner and imposes mandatory rules respecting elections in trade unions, federations and confederations, attributing the National Electoral Council a central role in the various stages of the electoral process, including the preparation of elections and the final phase, as it is assigned responsibility for resolving any appeals; (4) on 3 February 2005, the Ministry of Labour issued resolution No. 3538 requiring trade union organizations to "deliver, within 30 days, the data on their administration and the register of members in a form that includes each worker's full identity, place of residence and signature": according to the CTV, through this requirement, the Ministry of Labour demonstrated its lack of impartiality and trade union members are exposed to acts of anti-union discrimination; (5) with regard to trade union rights in practice, Government policies on freedom of association have continued to be rooted in the context of political conflict: the deterioration of industrial relations increased as the claims of

workers were associated with the diatribes against the Government, despite the will of the Government to pacify the conflictual climate prevailing in the country: the repeated attacks by the authorities against trade unionists opposing the interventionist policy of President Hugo Chávez Frías continued to have a negative influence on trade union rights, in contrast with the claims of the Government to respect human rights; (6) social dialogue is limited: even though the authorities supposedly included the CTV in the various social dialogue bodies, both the CTV and FEDECAMARAS affirm that very little progress has been achieved in this respect: the Committee of Experts indicated that the existence of the meetings does not necessarily guarantee the existence of meaningful consultations and agreements; (7) in view of the possibility that the CNE might approve regulations according to the capacity to intervene in the election of trade union bodies, the principal trade union organizations (CTV, UNT, CUTV, CODESA and CGT) adopted a joint declaration in November 2004 calling upon the CNE to refrain from imposing standards regulating election processes in trade union organizations and to confine its intervention to technical and logistical support requested by trade unions and confirming that such processes were carried out in accordance with the statutes of the trade union organizations concerned: nevertheless, on 20 December 2004, the CNE issued the regulations containing standards governing the election of executive bodies in trade union organizations without any consultation of the observations made by the trade union movement; (8) in December 2005, a total of 18,000 teachers in Maracay (state of Aragua) protested against a new policy adopted by the Government which unilaterally abolished the compensation for teachers working in remote or difficult areas, which had been obtained by their trade union through collective bargaining; and (9) in December 2005, the secretary-general of one of the main teachers' unions in the country indicated that officials that the Ministry of Education in Miranda were intimidating teachers who had signed petitions during the 2004 political referendum to confirm the President of the Republic: according to the secretary-general, the officials made use of threats, dismissals and mandatory transfers to distant school establishments, while officials of the Ministry also threatened teachers who had planned a trade union meeting, indicating that they would be subject to disciplinary action: it is reported that 300 teachers were dismissed in the previous weeks and months.

The Committee's comments

(A) Legislative aspects

The Committee reiterates its previous comments concerning the Bill to amend the Basic Labour Act on measures to resolve the current restriction on the exercise of the rights afforded by the Convention to employers' and workers' organizations. As the restrictions are significant and in view of the fact that Bill has been under examination for years, the Committee requests the Government to take new initiatives, within the framework of the legal system, for the adoption of the Bill by the Legislative Assembly in the very near future. Taking into account the information at its disposal, as referred to above, the Committee emphasizes the importance of including in the Bill a provision which unambiguously recognizes the right of trade union leaders to be re-elected if the trade union statutes do not provide otherwise.

The Committee is nevertheless bound to regret that, as the above Bill is under examination, and noting the Government's statements concerning the role of the National Electoral Council (intervention exclusively when so requested by the trade union organizations themselves and limitation to a role of technical cooperation and logistical support), the Statute for the election of executive bodies of trade union organizations, of 20 December 2004, issued by the National Electoral Council, remains in force even though, as indicated by the ICFTU, it regulates in a very detailed manner the elections of trade unions and attributes the CNE a central role at various stages (including the resolution of any appeals). The Committee notes that at its session in March 2006, the Committee on Freedom of Association criticized the above Statute during its examination of Case No. 2411. The Committee of Experts notes that, according to the high-level mission, the possibility of revising the Statute will be discussed by the CNE directorate and it requests the competent authorities to ensure that the Statute is amended or repealed so as to guarantee the right of trade union organizations to elect their representatives in full freedom (*Article 3 of the Convention*), without interference by the authorities, particularly through a very detailed regulation of procedures, especially as the resolution of any appeals is entrusted to a non-judicial body such as the National Electoral Council. The Committee notes with concern that in Case No. 2422, examined in June 2006, the Committee on Freedom of Association found that the National Electoral Council continues to interfere in trade union elections.

The Committee also notes the criticisms levelled by the ICFTU against resolution No. 3538 of February 2005 and observes that this issue was examined in March 2006 in the context of Case No. 2411 by the Committee on Freedom of Association, which made the following recommendation (see 340th Report para. 1400):

- (b) Regarding the allegations relating to the Ministry of Labour resolution of 3 February 2005 giving trade union organizations 30 days to provide information on their administration and register of members in a form that includes each worker's full identity, place of residence and signature, the Committee considers that the confidentiality of trade union membership should be ensured and recalls that it would be advisable to establish, between trade unions, a code of conduct governing the conditions in which membership data is to be supplied, with the use of appropriate means of personal data, processing, with guarantees of absolute confidentiality.

With regard to the regulations of the Basic Labour Act, dated 25 April 2006, the Committee notes with interest that, contrary to the Basic Labour Act, under these regulations it is possible for foreign nationals to be members of the executive boards of trade unions, if so provided by the statutes of the trade union. The Committee nevertheless wishes to indicate the following provisions of the regulations which might restrict the rights of trade union organizations and

employers' organizations: (1) the necessity for the trade union organization(s) to represent the majority of the workers to be able to engage in collective bargaining (section 115, sole paragraph, of the regulations); and (2) the possibility of compulsory arbitration in essential public services (section 152 of the regulations). ***Before issuing an opinion on these provisions, the Committee requests the Government to provide indications on their scope.***

Finally, the Committee notes that section 9 of the Bill to partially reform the Penal Code provides that "any person who engages in an activity intended to interrupt the proper performance or the normal activity of one or several basic or strategic enterprises of the State shall be sentenced to imprisonment for between 16 and 18 years". ***The Committee requests the Government to indicate whether the above Bill is still under examination and, if so, to provide indications on the scope of this provision and any possible relationship with the exercise of the right to strike.***

(B) Social dialogue

The Committee notes from the Government's report the many bipartite and tripartite meetings held between the Government and the CTV, other trade union organizations, the peak employers' organization FEDECAMARAS and other employers' organizations. The Committee notes that these meetings and consultations covered various draft texts and various aspects of economic, social and labour problems. The Committee notes and welcomes the amendment of the regulations of the Basic Labour Act, which establish in sections 24 et seq. a national dialogue forum including representatives of the Government, workers' organizations, employers' organizations and organizations of the informal economy with a view to making recommendations relating to minimum services. ***The Committee requests the Government to provide information on the activities and results of this forum. The Committee hopes that the principle of tripartism will be respected in the activities of the forum.***

The Committee notes that, in its comments in 2005, the ICFTU indicated, in relation to the CTV, that the Government has preferred another federation, the establishment of which it supported, and that although the CTV has been included in various social dialogue bodies, very little progress has been achieved in this respect. The Committee notes that the CTV and the CGT indicated to the high-level mission that "there is no social dialogue and that the consultations held are merely formed without any intention of taking into account the opinion of the parties consulted". In its session in June 2006, the Committee on Freedom of Association welcomed the Government's indication that there had been developments in the social dialogue with FEDECAMARAS and observed that, according to the International Organization of Employers (IOE), there is no genuine dialogue and that the situation has not improved (see 242nd Report, para. 1017). The Committee notes that the high-level mission indicates in its conclusions that: "FEDECAMARAS contended that it had entered into dialogue with the Government and that it sees possibilities of progress, but that up to now certain specific aspects of great importance have been excluded from the discussion and that the areas on which consensus has been reached are not sufficiently relevant to be cited as examples of progress", and that "while there appear to be positive developments with regard to social dialogue, the structures are lacking to ensure its sustainability". Accordingly, the establishment of a social forum or another similar body should be examined by the parties in the near future". ***The Committee notes that, according to the report of the mission, this objective enjoys broad support among the social partners and it requests the Government to establish a permanent tripartite social dialogue body and to keep it informed of developments in relation to social dialogue.***

The Committee hopes that ILO technical assistance would materialize in the near future on subjects on which there is consensus, particularly in relation to social dialogue and the representativity of organizations.

(C) Other matters

With regard to the restrictions on freedom of movement on certain trade union and employers' leaders, the Committee notes the statement made by the Government and that the high-level mission refers to the conclusions of the supervisory bodies. The Committee also refers to the conclusions of the Conference Committee in June 2006.

The Committee hopes that the Government will take all the necessary measures to bring national law and practice into full conformity with the Convention and offers the Government the technical assistance of the ILO. Finally, the Committee requests the Government to reply in detail to the ICFTU's comments of 2006.

The Committee notes that a certain number of trade union organizations, including certain federations, have not held their trade union elections despite the expiry of the period for which they had elected their executive bodies. The high-level mission refers to a profound and manifest misunderstanding among the social partners concerning the functions of the CNG. The Committee reiterates the offer of technical assistance made by the high-level mission to trade union federations. The Committee emphasizes the importance of holding the elections in question since, as indicated in the report of the high-level mission, any delay in the procedures is accompanied by the non-recognition of trade unions for the purposes of collective bargaining.

However, the Committee considers, as proposed by the high-level mission, that the Government should conduct investigations into the alleged actions of certain middle-ranking officials in relation to the allegations of favouritism and partiality with regard to certain employers' and workers' organizations.

The Committee hopes that the Government will take measures to ensure full compliance with the Convention in relation to the various matters raised in this observation and it requests the Government to provide information in this regard.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1968)

The Committee notes the Government's report and, in particular, the information concerning the procedure followed to determine the representativeness of trade union organizations in the collective bargaining process.

The Committee asks the Government, once again, to provide information on the cases that have arisen in recent years in which two trade union organizations claimed to be the most representative and on the criteria used in practice by the authorities to determine the most representative trade union. The Committee asks the Government to indicate the number of cases in which the decision of the administrative authority has been challenged in a court of law, indicating the grounds put forward by the complainant trade union organization.

Lastly, the Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention and refers, in this respect, to its observation on the application of Convention No. 87.

Yemen

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1976)

The Committee notes the Government's report.

It further notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in its communication dated 10 August 2006 on the draft Labour Code which concern the following issues: restrictions on trade union membership and election of officers, single trade union system and strict conditions on the right to organize. *The Committee requests the Government to communicate its observations on these comments in its next report.*

1. *The Law on Trade Unions (2002).* The Committee notes the Law on Trade Unions and wishes to raise in this respect the following points:

- Exclusion from the scope of the Law of employees of high-level public authorities and Cabinets of Ministers (section 4). *Considering that senior public officials should be entitled to establish their own organizations and that the legislation should limit this category to persons exercising senior managerial or policy-making responsibilities (see 1994 General Survey on freedom of association and collective bargaining, paragraph 57), the Committee requests the Government to indicate whether the persons referred to in section 4 of the Law enjoy the right to establish and join trade unions.*
- The reference to the General Federation of Trade Unions of Yemen (GFTUY) made in sections 2 (definition of "General Federation"), 20 and 21 could result in making it impossible to establish a second federation or represent workers' interests. The Committee considers that unification of trade union movement imposed through state intervention by legislative means runs counter to the principle embodied in *Articles 2 and 11 of the Convention*. *The Committee therefore requests the Government to amend the Law on Trade Union so as to repeal specific reference to the GFTUY and to keep it informed of the measures taken or envisaged in this respect.*
- Section 40(b) provides that a trade union organization can organize a strike in coordination with a trade union organization of the highest level. The Committee considers that a legislative provision which requires that a decision by the first-level trade union to call a strike at the local level should be approved by a higher-level trade union body is not in conformity with the right of trade unions to organize their activities and to formulate their programmes. *The Committee requests the Government to clarify whether, section 40(b) requires an authorization from the higher-level trade union for a strike to be organized and if that is the case, to take the necessary measures in order to amend the legislation so as to bring it into conformity with the Convention.*

2. *The draft Labour Code.* (1) *Article 2 of the Convention.* The Committee recalls that in its previous observation, it requested the Government to indicate the measures taken or envisaged to ensure that domestic workers, excluded from the draft Labour Code (section 3(b)), may fully benefit from the rights set out in the Convention and to transmit the texts of any legislation or regulations that ensure the right to organize for domestic workers and for the magistracy and the diplomatic corps. The Committee notes the Government's statement that, after the promulgation of the Labour Code, the competent authorities shall promulgate legislation specific to domestic workers. Only then the Government will be able to communicate a copy of the relevant legislation. *The Committee requests the Government to keep it informed of the developments in this respect.* As for the magistracy and the diplomatic corps, the Government indicates that there is no specific legislation concerning their trade union rights other than the Constitution, which guarantees this right without any exemption. *The Committee requests the Government to indicate whether these categories of workers can in practice establish and join organizations for furthering and defending their economic and social interests and rights.*

With regard to its previous request to consider revising section 173(2) of the draft Code to ensure that minors between the ages of 16 and 18 may join trade unions without parental authorization, the Committee notes with interest that the Government indicates it will consider repealing this provision from the final draft and requests it to keep it informed of the progress made in this regard.

(2) *Article 3.* In its previous comments, the Committee observed that it appeared, from the draft Labour Code, that foreign workers may not be elected to trade union office. The Committee notes the Government's explanation that the draft Code does not exclude foreign workers from taking up trade union office. Furthermore, the Government indicates that only foreign persons holding diplomatic passports and those who work in Yemen on the basis of political visas are excluded from the scope of the draft Code under section 3B(6). This category of workers is covered by the specific legislation, regulations and agreements on reciprocal treatment. ***The Committee requests the Government to indicate whether this category of foreign workers can in practice establish and join organizations of their own choosing.***

With regard to the Committee's previous request to provide a list of essential services referred to in section 219(3) of the draft Code which empowers the Minister to submit disputes to compulsory arbitration, the Committee notes the Government's indication that the Council of Ministers will issue such a list once the Labour Code is promulgated.

Concerning section 211 of the draft Labour Code, which provides that strike notice must include an indication as to the duration of a strike, the Committee notes the Government's indication that it is willing to take into account the previous observation of the Committee to the effect that such a requirement unduly restricts the effectiveness of an essential means for furthering and defending workers' occupational interests. ***It requests the Government to keep it informed of the progress made in this regard.***

(3) *Articles 5 and 6.* With regard to section 172 of the draft Labour Code which would appear to prohibit the right of workers' organizations to affiliate with international workers' organizations, the Committee notes the Government's indication that indeed, this section contradicts section 66 of the Law on Trade Unions which ensures the right to affiliate with international organization and the current practice, as the Federations of Trade Unions of Yemen is a member of the ICFTU. ***The Committee therefore trusts that the Government will take the necessary measures to withdraw section 172 from the draft Labour Code.***

Finally, the Committee notes the Government's indication that the International Labour Office provided technical cooperation on the amendment of the Labour Code. The draft legislation was prepared with the help of the ILO experts and an initial workshop was organized for its discussion. In addition to the comments on the draft legislation made by the International Labour Standards Department, the Ministry of Labour had also received comments made by the social partners. The Government states that it was currently awaiting the completion of the subsequent phase agreed upon by the Ministry of Labour and the ILO regarding the organization of a second and final tripartite workshop for the discussion of the draft amendment and the comments made by the Office. Once the final version of the draft, which would take into account the ILO's comments and the discussion at the tripartite workshop, is prepared with the help of an ILO expert, the Government would transmit a copy thereof to the Committee and would take the necessary measures for its submission to the competent authority for promulgation. ***The Committee requests the Government to keep it informed of the development of this legislative process.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1969)***

The Committee takes note of the Government's report.

1. *Comments of the International Confederation of Free Trade Unions (ICFTU).* The Committee further notes the observations submitted by the ICFTU in its communication dated 10 August 2006 with regard to the power of veto that the Ministry of Labour can use to annul collective agreements, as well as the acts of anti-union discrimination, particularly in the private sector, and refusals of employers to bargain collectively in practice. The ICFTU also states that under the draft Labour Code, civil servants are excluded from joining trade unions. ***The Committee requests the Government to communicate its observations on these comments in its next report.***

2. *Articles 2 and 4 of the Convention.* The Committee recalls that its previous observation concerned the following legislative issues:

- the need to provide for effective and sufficiently dissuasive sanctions that guarantee the protection of workers' organizations against acts of interference by employers or their organizations;
- the need to amend sections 32(6) and 34(2) of the Labour Code, so that refusal to register a collective agreement is only possible due to a procedural flaw or because it does not conform to the minimum standards laid down by the labour legislation and not on the basis of consideration of "economic interests of the country".

The Committee further requested the Government to provide statistics on the number of workers covered by collective agreements in comparison with the total number of workers in the country.

The Committee notes the Government's indication that the International Labour Office provided technical cooperation on the amendment of the Labour Code. The draft law was prepared with the help of the ILO specialist and an initial workshop was organized for its discussion. In addition to the comments on the draft law made by the International Labour Standards Department, the Ministry of Labour had also received comments made by the social partners. The Government states that it was currently awaiting the completion of the subsequent phase agreed upon by the Ministry of Labour and the ILO regarding the organization of a second and final tripartite workshop for the discussion of the draft amendment and the comments made by the Office. Once the final version of the draft, which would take into account the ILO's comments and the discussion at the tripartite workshop, is prepared with the help of an ILO specialist, the

Government would transmit a copy thereof to the Committee and would take the necessary measures for its submission to the competent authority for promulgation.

The Government informs that it shall endeavour to add provisions to the Labour Code on penal responsibility of employers committing acts of anti-union discrimination in order to bring the legislation into conformity with the Convention and the observations of the Committee. With regard to the specific legislative amendments previously requested by the Committee, the Government further states that it will also take into account the comments made by the Committee on the need to provide for effective and sufficiently dissuasive sanctions to guarantee the protection of workers' organizations against acts of interference by employers or their organizations, as well as on the need to amend sections 32(6) and 34(2) of the Labour Code so that refusal to register a collective agreement is only possible due to a procedural flaw or because it does not conform to the minimum standards laid down by the labour legislation. The Committee notes with interest these statements of political will of the Government to overcome the current problems with regard to the conformity of the legislation with the Conventions and the measures taken to this effect.

While noting that the process of formulating the draft legislative amendments appears to be going in the right direction, the Committee trusts that its previous observations will be fully reflected in the new legislation. The Committee requests the Government to provide a copy of the draft Labour Code as soon as the final version of it is available.

In its previous comments, the Committee had requested the Government to provide statistics on the number of workers covered by collective agreements in comparison with the total number of workers in the country. As in its previous comment, the Government reiterates that the information and statistics on collective bargaining are not available. ***The Committee once again expresses the firm hope that the Government will be able to provide it with these statistics together with its next report.***

Zambia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee notes the Government's report.

The Committee also notes the comments on the application of the Convention made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 10 August 2006, referring to the arrest by the police of nine trade unionists during the national strike on 8 February 2005 and the arrest of 31 mineworkers during the strike held in July 2005, as well as the attempt to open criminal proceedings against the union leadership of the National Energy Sector and Allied Workers' Union. In this respect, the Committee takes note of the observations submitted by the Government in which it indicates that: (1) with regard to the nine trade unionists arrested during the 2005 national strike, the police has only arrested people who were protesting without police permission and who could represent a danger for society; (2) with regard to the arrest of 31 mineworkers during a strike in July 2005, this was done to reduce tension between the parties to the conflict and to maintain peace in the country. The Committee recalls that the police authorities should be given precise instructions so that, in cases where public order is not seriously threatened, people are not arrested simply for having organized or participated in a demonstration, and that the arrest of trade unionists against whom no charge is brought involves restrictions on freedom of association, and governments should adopt measures for issuing appropriate instructions to prevent the danger involved for trade union activities by such arrests. ***The Committee requests the Government to ensure that these principles are respected.***

The Committee recalls that for many years it has been requesting the Government to take measures to bring the following provisions of the Industrial and Labour Relations Act into conformity with the Convention:

- section 78(6) to (8), under which a strike can be discontinued if it is found by the court not to be “in the public interest”;
- section 100, which refers to exposing property to injury;
- section 107, which prohibits strikes in essential services and empowers the Minister to add other services to the list of essential services, in consultation with the Tripartite Consultative Labour Council;
- section 76, which establishes no timeframe within which conciliation should end before a strike can take place;
- section 78(1) under which, as interpreted by a decision of the Industrial Relations Court, either party may take an industrial dispute to court;
- section 107, which empowers a police officer to arrest, without any possibility of bail, a person who is believed to be striking in an essential service or who is violating section 100 (exposing property to injury), and which imposes a fine and up to six months' imprisonment;
- section 2(e), which excludes from the scope of the Act, and therefore from the guarantees afforded by the Convention, workers in the prison service, judges, registrars of the court, magistrates and local court justices, and section 2(2), which accords the Minister discretionary power to exclude certain categories of workers from the scope of the Act; and

- sections 18(1)(b) and 43(1)(a), under which a person, having been an officer of an employers' or workers' organization whose certificate of registration has been cancelled, may be disqualified from being an officer of a trade union if that person fails to satisfy the commissioner that she or he did not contribute to the circumstances leading to such cancellation.

In this regard, the Committee notes the Government's indication that the Technical Tripartite Committee has amended the laws, which await adoption by the Tripartite Consultative Labour Council and ratification by Parliament. *The Committee hopes that the envisaged amendments will take into account the comments that it has been making for many years and that they will be adopted in the near future. The Committee requests the Government to provide information in its next report on any progress achieved in this respect and hopes that the amendments to the Act will be in full conformity with the provisions of the Convention.*

Finally, with regard to the observations of the ICFTU of 31 August 2005 concerning threats by the President to trade unions, the Committee notes the Government's indication that these allegations are unfounded and that the trade unions were merely reminded to concentrate on the activities of workers' interests which constitute their core business, rather than political issues. In this respect, the Committee recalls that "although the promotion of working conditions by collective bargaining remains a major feature of trade union action, ... workers' organizations must be able to voice their opinions on political issues in the broad sense of the term and, in particular, to express their views publicly on a government's economic and social policy" (see General Survey on freedom of association and collective bargaining, 1994, paragraph 131).

Zimbabwe

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2003)

The Committee notes the Government's report.

It further notes the Government's reply to the comments made by the International Confederation of Free Trade Unions (ICFTU) and the Zimbabwe Congress of Trade Unions (ZCTU). The Committee notes that the Government disagrees with the ICFTU and the ZCTU statements that trade union rights are violated in law. In particular, the Government indicates that contrary to the ICFTU's statement: (1) managers have a right to join trade unions and go on strike; (2) the Minister is required to consult with the tripartite Advisory Council before deciding what constitutes essential service; (3) the Public Order and Security Act (POSA) does not apply to the activities of trade unions and employers' organizations; and (4) revision of the Public Service Act is intended to make sure that its provisions are in conformity with the Labour Act and the Convention. Furthermore, the Government states that contrary to the ZCTU's interpretation, section 51 of the Labour Act, which provides for the powers of the Minister with regard to the supervision of election of officers of trade unions or employers' organizations, does not infringe the rights and principles of the Convention. According to the Government, this section is intended to ensure that constitutions and procedures of a trade union are followed during elections. Those who supervise elections do not go beyond the function of merely observing that the procedure and conduct of elections are followed in terms of the established rules and constitution of the trade union concerned. Furthermore, section 55 of the Act is intended to protect the interests of workers against the pegging of unsustainable trade union dues. The Government further denies the allegations of its involvement in establishment of the Zimbabwe Federation of Trade Unions (ZFTU) and of attempts to change the ZCTU leadership. The Committee notes that, with regard to the ICFTU allegations of arrests of trade unionists, the Government refers to the information it had submitted to, and had been examined by, the Committee on Freedom of Association.

The Committee notes that by their communications dated 12 July 2006 and 1 September 2006, respectively, the ICFTU and the ZCTU submitted further comments concerning the application of the Convention in law and in practice. The Committee notes that the ICFTU comments refer to the legislative issues already raised by the Committee and to serious allegations concerning arrests, assaults, death threats, acts of torture and police violence against trade union leaders and members. In this respect, the Committee has, on numerous occasions, stressed the interdependence between civil liberties and trade union rights emphasising that a truly free and independent trade union movement can only develop in a climate of respect for fundamental human rights. *The Committee requests the Government to provide its observations thereon.*

The Committee recalls that, in its previous observation, it had requested the Government to take measures to ensure that the POSA is not used to infringe upon the right of workers' organizations to express their views on the Government's economic and social policy. While taking note of the Government's indication that the POSA does not apply to the activities of trade unions and employers' organizations, the Committee notes from Case No. 2313 examined by the Committee on Freedom of Association (see 343rd Report, paragraphs 1149-1169) that several trade union members and officers have been arrested and initially charged under this Act. *In these circumstances, the Committee once again requests the Government to take the necessary measures to ensure that the POSA is not used to infringe upon the right of workers' organizations to express their views on the Government's economic and social policy.*

Finally, the Committee takes note of the discussion that took place at the Conference Committee in June 2006 and notes that, in its conclusions, the Conference Committee “requested the Government to consider accepting a high-level technical assistance mission from the Office aimed at ensuring the full respect for freedom of associations and basic civil liberties not only in law, but also in practice”. While noting that an official visit of the Director of the International Labour Standards Department at the invitation of the Government of Zimbabwe took place in August 2006, the Committee regrets that the Government has not yet accepted the suggested high-level technical assistance mission. ***The Committee expresses the hope that the Government will give a positive response to this suggestion in the very near future.***

A request on certain other points is being addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1998)

The Committee notes the Government’s report.

1. *The comments submitted by the International Confederation of Free Trade Unions (ICFTU) and the Zimbabwe Congress of Trade Unions (ZCTU).* The Committee notes the Government’s reply to the comments made by the ICFTU and the ZCTU in a communication dated 6 September 2005, in which the Government submits that the cases referred to by both organizations are related to political activities, in which trade union leaders engage using trade union platforms. With regard to the numerous allegations of dismissals, the Committee notes the Government’s statement that it had provided the relevant information to the Committee on Freedom of Association. As regards, more particularly, the case of dismissal of Mr Matombo, president of the ZCTU, the Government indicates that this case between the dismissed person and a private company is being handled in terms of the established dispute resolution system. The Committee notes the conclusions of the Committee on Freedom of Association in Cases Nos. 2328 and 2365 concerning the allegations of anti-union dismissals and transfers, requesting information on the measures taken to implement its recommendations with regard to the dismissed or transferred workers. In this respect, the Committee regrets that, in practice, trade union rights continue to be impaired. ***It therefore requests the Government to take the necessary measures to ensure appropriate conditions for free exercise of trade union rights in practice within the meaning of Convention No. 98 and to ensure fair and rapid means of redress for all acts of anti-union discrimination and interference.***

With regard to the ICFTU comment that collective agreements are subject to governmental approval and that collective bargaining is not the exclusive prerogative of trade unions and can also be carried out by workers’ committees, the Committee notes the Government’s statement that the provisions of the Labour Relations Act providing for workers’ committees were meant to give more leeway to workers to exercise their right to negotiate above what would have been agreed to at the National Employment Council level.

The Committee notes that, by their communications dated 12 July 2006 and 1 September 2006, respectively, the ICFTU and the ZCTU submitted further comments concerning the legislative issues which are also a subject of concern to the Committee and which are raised below. ***The Committee requests the Government to provide its comments thereon.***

2. *Previously raised legislative issues.* The Committee notes with interest that the following provisions of the Labour Relations Act were repealed by the Labour Amendment Bill, 2005: paragraph (b) common to sections 25(2), 79(2) and 81(1), containing a requirement for collective agreements to be submitted for ministerial approval in order to ensure that their provisions are equitable to consumers, to members of the public generally or to any other party to the collective bargaining agreement; and section 22, concerning the right of the Minister to fix a maximum wage and the maximum amount that may be payable by way of benefits, allowances, bonuses or increments by statutory instrument prevailing over any agreement or arrangement.

The Committee recalls, however, that it also had requested the Government to repeal paragraph (c) common to the same sections, which subjected collective agreements to ministerial approval on the ground that the agreement is or has become unreasonable or unfair, having regard to the respective rights of the parties. The Committee notes the Government’s indication that it will initiate consideration of the Committee’s concern in the context of ongoing labour law reform. ***The Committee therefore requests the Government to take the necessary measures in order to amend sections 25(2)(c), 79(2)(c) and 81(1)(c) during the present legislative revision so as to ensure the full application of the Convention and, more particularly, to ensure that no interference of the authorities in the collective bargaining process is possible.***

In its previous observations, the Committee also requested the Government to amend section 25(1) of the Labour Relations Act, according to which, if a workers’ committee (committee of representatives elected by workers to represent their interests) concludes a collective agreement with the employer, it must be approved by the trade union and by more than 50 per cent of the employees. The Committee notes the Government’s statement that it will initiate consideration of the Committee’s concern in the context of ongoing labour law reform. The Committee recalls once again that negotiations, through direct settlement of agreements signed between an employer and the representatives of a group of non-unionized workers, when a union exists in the undertaking, do not promote collective bargaining as set out in *Article 4* of the Convention. ***The Committee requests the Government to take the necessary measures in order to amend section 25(1) of the Act during the present legislative revision so as to ensure that when a union exists in the undertaking, even if it represents less than 50 per cent of the employees at the workplace and even if a workers’ committee exists in the undertaking or the related industry, bargaining rights are guaranteed to the union.***

Regretting that no information was provided by the Government with regard to prison staff, the Committee once again reiterates its previous request to the Government to take appropriate measures in order to ensure that prison workers enjoy the rights afforded to them under the Convention.

Article 6. The Committee requests the Government to send its observations on the ZCTU's comments, according to which civil servants continue to be denied the right to collective bargaining.

3. While noting that an official visit of the Director of the International Labour Standards Department at the invitation of the Government of Zimbabwe took place in August 2006, the Committee regrets that the Government has not yet accepted the suggestion by the Conference Committee in June 2005 for a direct contacts mission. *The Committee expresses the hope that the Government will give a positive response to this suggestion in the very near future.*

The Committee considers that violations of trade union rights in law and practice are a symptom of deficiency of social dialogue in the country. While noting certain progress in respect of the legislative amendments, and the tripartite Kadoma Declaration "Towards a shared national economic and social vision" (adopted by the tripartite constituents in 2001 but still not signed), the Committee notes from the report of the mission undertaken by the Director of the International Labour Standards Department that "there was a deep-rooted distrust among the tripartite constituents today in Zimbabwe and that although each constituent should engage in rebuilding that trust, the Government had an important role to play to encourage and promote social dialogue as a facilitator". *The Committee expresses the hope that the Government will take all necessary measures to strengthen social dialogue in the country by involving the most representative trade unions without exception, in order to bring the law and practice into full conformity with the Convention and to ensure that trade unions can carry out their activities and exercise their rights guaranteed under the Convention without interference. The Committee requests the Government to keep it informed of the concrete steps taken in this regard.*

The Committee requests the Government to keep it informed of the measures taken or envisaged in respect of the abovementioned points.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 11** (Australia, Azerbaijan, Brazil, Estonia, Morocco, Rwanda, Sri Lanka, Swaziland, Tajikistan, Turkey, Uganda, Zambia); **Convention No. 87** (Angola, Australia, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cambodia, Czech Republic, Democratic Republic of the Congo, Denmark, France: French Southern and Antarctic Territories, Gambia, Georgia, Ghana, Grenada, Hungary, Kiribati, Kyrgyzstan, Latvia, Lesotho, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malawi, Mali, Malta, Mauritania, Mauritius, Republic of Moldova, Mongolia, Mozambique, Netherlands: Aruba, Netherlands: Netherlands Antilles, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Serbia, Sierra Leone, Slovakia, Slovenia, Swaziland, Switzerland, United Republic of Tanzania, The former Yugoslav Republic of Macedonia, Turkey, Uganda, Ukraine, United Kingdom, United Kingdom: Jersey, Zimbabwe); **Convention No. 98** (Algeria, Australia, Belgium, Belize, Bolivia, Bulgaria, Congo, Democratic Republic of the Congo, France, Gabon, Georgia, Ireland, Israel, Kenya, Kiribati, Kyrgyzstan, Latvia, Lithuania, Malawi, Malta, Mauritania, Mongolia, Morocco, Mozambique, Niger, Peru, Poland, Portugal, Rwanda, Saint Vincent and the Grenadines, Sao Tome and Principe, Senegal, Seychelles, Slovenia, Tajikistan, United Republic of Tanzania, Tunisia, Turkey, United Kingdom: Bermuda, United Kingdom: Jersey, United Kingdom: Montserrat, Uzbekistan, Zambia); **Convention No. 135** (Azerbaijan, Kazakhstan); **Convention No. 141** (Belize, Burkina Faso, Finland, France: French Guiana, Guatemala, Mali, Philippines); **Convention No. 151** (Belize, Chile, Peru, Turkey); **Convention No. 154** (Belize).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 98** (Luxembourg).

Forced Labour

Belgium

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

Article 1(c) of the Convention. The Committee notes the Act of 15 May 2006 issuing various provisions relating to transport, which amended or repealed in particular sections 10, 22, 25(1) and (2), 26(1), 27 and 28 of the Disciplinary and Penal Code for the Merchant Navy and the Commercial Fishing Fleet. The Committee notes with satisfaction that these amendments have taken into consideration the comments that it has been making for many years, in such a way as to ensure that penalties of imprisonment involving compulsory labour can no longer be imposed upon seafarers for breaches of labour discipline which do not endanger the safety of the vessel or the life or health of persons.

Bolivia

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1990)

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

Article 1(d) of the Convention. In previous comments the Committee referred to section 234 of the Penal Code under which advocacy of lockouts, strikes or stoppages declared illegal by the labour authorities is punishable by imprisonment of one to five years. Sentences of imprisonment involve an obligation to work under sections 48 and 50 of the Penal Code. The Committee requested the Government to supply information on the effect given in practice to these provisions in order to enable it to evaluate their scope, and to provide copies of court decisions made under them, indicating the number of convictions.

With reference to this matter, the Committee noted the conclusions of the Committee on Freedom of Association regarding the complaint made by the World Confederation of Labour (WCL), Case No. 2007 (GB.277/9/1). According to the complaint, arrest warrants had been issued against a number of striking workers on the basis of section 234 of the Penal Code. The WCL alleged that this case set an extremely serious precedent in criminalizing a strike (GB.277/9/1, paragraph 263).

In its conclusions the Committee on Freedom of Association stated that the Committee of Experts in its comments on the application of Convention No. 87 by Bolivia in 1999 and previous years criticized certain restrictions in respect of the right to strike, such as the requirement for a majority of three-quarters of the workers of the enterprise to call a strike (section 114 of the General Labour Act and section 159 of the Regulation), the unlawful nature of general and sympathy strikes which are liable to penal sanctions (Legislative Decree No. 02565 of 1951) and the recourse to compulsory arbitration by decision of the Executive Power (section 113 of the General Labour Act). In these circumstances the Committee on Freedom of Association urged the Government to adopt measures as a matter of urgency with a view to amending legislation concerning strikes in respect of all the points raised by the Committee of Experts and with regard to the need to ensure that strikes may be declared illegal only by an independent body, given that excessive requirements and restrictions in many cases make legal strike action impossible in practice (paragraph 282). In its recommendations, the Committee emphasized that no worker on strike who had acted peacefully should be subject to criminal sanctions, and asked the Government to reform the Penal Code with this principle in mind and to inform it of any rulings handed down in this regard (paragraph 285(c)).

The Committee referred to the explanations contained in paragraphs 126 et seq. of its 1979 General Survey on the abolition of forced labour which indicate that excessive restrictions imposed on the exercise of the right to strike have an impact on application of the Convention. This is the case with the requirement for a qualified majority to call a strike and the existence of compulsory arbitration systems when such restrictions result in a declaration that the strike is illegal with the consequent penal sanctions and the imposition of compulsory prison labour. ***The Committee expressed the hope that the Government would take the necessary measures to ensure that penalties involving compulsory labour would not be imposed for participation in strikes.***

The Committee notes the information provided by the Government in its report to the effect that, with the assistance of the ILO technical advisory mission carried out in April 2004, a draft Act has been drawn up on the basis of a tripartite agreement resulting from negotiations between representatives of the Bolivian Central Workers' Organization (COB), the Bolivian National Confederation of Private Sector Employers (CEPB) and the Ministry of Labour, who agreed on the amendment of various legal provisions, including sections 2, 9 and 10 of Legislative Decree No. 2565 of 6 June 1951, establishing penal sanctions for sympathy strikes, and section 234 of the Penal Code, which classifies as an offence strikes or lockouts declared illegal by the Ministry of Labour, thereby abolishing the penalties which had previously been imposed on strikes.

The Committee hopes that the Government will provide a copy of the amended legislation 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.

Central African Republic

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation on the following matters.

Article 1, paragraph 1, and Article 2, paragraph 1, of the Convention. Idleness, active population and compulsory activities. Since 1966, the Committee has been drawing the Government's attention to the need to repeal certain provisions of the national legislation under which forced or compulsory labour could be exacted and which are therefore contrary to the Convention:

- Ordinance No. 66/004 of 8 January 1966 with respect to the suppression of idleness, as amended by Ordinance No. 72/083 of 18 October 1972, under which any able-bodied person aged between 18 and 55 years who cannot prove that she or he is engaged in a normal activity providing for her or his subsistence or that she or he is engaged in studies is considered to be idle and liable to a penalty of between one and three years of imprisonment;
- Ordinance No. 66/038 of June 1966 respecting the supervision of the active population, under which any person aged between 18 and 55 years who cannot justify belonging to one of the eight categories of the active population shall be called up to cultivate land designated by the administrative authorities and shall also be considered a vagabond if apprehended outside her or his *sous-préfecture* of origin and shall be liable to a sentence of imprisonment;
- Ordinance No. 75/005 of 5 January 1975 obliging all citizens to provide proof of the exercise of a commercial, agricultural or pastoral activity and making persons in violation of this provision liable to the most severe penalties; and
- section 28 of Act No. 60/109 of 27 June 1960 with respect to the development of the rural economy, under which minimum surfaces for cultivation are to be established for each rural community.

In its latest report, the Government once again indicates that these texts have become obsolete, and that they are being revised in cooperation with the United Nations Peace-Building Office in the Central African Republic (BONUCA) which is awaiting the restoration of constitutional legality. The Government reiterates its commitment to repeal the provisions of these texts which are contrary to the Convention. The Committee takes note of this information. *As this matter has been the subject of its comments for many years, the Committee expresses the hope that there will soon be a situation of institutional stability in order to allow the Government to take all the necessary measures to formally repeal the above texts.*

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1964)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation on the following matters.

The Committee has previously noted the Government's indications that the process of reform of the penal legislation, undertaken in cooperation with the United Nations Peace-Building Office in the Central African Republic (BONUCA), has been suspended pending the installation of new Central African authorities. The Government has added that it will make every effort possible to revise the texts referred to by the Committee in its previous comments. The Committee has taken note of this information. It noted that the 2004 Constitution guarantees, inter alia, the freedoms of expression, assembly and association (articles 8, 12 and 13). Nevertheless, the Committee would like to reiterate the points to which it has previously drawn the Government's attention.

Article 1(a) of the Convention. Imposition of imprisonment involving an obligation to work as a sanction for expressing political views or views ideologically opposed to the established political, social and economic order

1. For many years, the Committee has been drawing the Government's attention to the need to amend or repeal the provisions of Act No. 60/169 of 12 December 1960 (dissemination of prohibited publications liable to prejudice the development of the Central African nation) and Order No. 3-MI of 25 April 1969 (dissemination of periodicals or news of foreign origin not approved by the censorship authority) which provide for sentences of imprisonment that involve compulsory labour by virtue of section 62 of Order No. 2772, of 18 August 1955, regulating the functioning of penal institutions and the work of detainees. *The Committee asks the Government to provide information on the measures taken with a view to amending or repealing the abovementioned provisions.*

2. Furthermore, the Committee once again requests the Government to provide information on the application in practice of the provisions mentioned below, so that it will be able to assess their scope and ensure that they have no relevance to the application of the Convention. The Committee also asks the Government to supply a copy of any court decisions handed down under these provisions.

(i) Section 77 of the Penal Code (dissemination of propaganda for certain purposes; actions of such a type as to jeopardize public safety, etc.) and sections 130 to 135 and 137 to 139 of the Penal Code (offences against persons occupying various public offices), which provide for prison sentences involving the obligation to work.

(ii) Article 3 of Act No. 61/233 governing associations in the Central African Republic read in conjunction with article 12. Under article 12, the "founders, directors, administrators or members of any association that is unlawfully maintained or reconstituted after the act of dissolution" shall be liable to imprisonment. Under article 3 of this Act any association which is "of a nature to give rise to political disturbance or cast discredit on political institutions and their functioning" shall be null and void.

The Committee recalls in this regard that, in most cases, work imposed on persons as a consequence of a conviction in a court of law has no relevance to the application of the Convention. On the other hand, if a person is in any way forced to work because she or he holds or has expressed particular political views, or views ideologically opposed to the established political, social or economic system, the situation is covered by the Convention. Furthermore, the Committee has already emphasized the importance, for the effective observance of the Convention, of legal guarantees regarding the rights of assembly, expression, protest and association, and the direct implications that restriction of these rights may have on the application of the Convention. *The Committee hopes that the Government will take all necessary measures to ensure that no sentence involving the obligation to work is imposed as a result of the expression of political opinions or views opposed to the established political, social or economic system, in so far as these are expressed without recourse to violence.*

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

Chad

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

1. The Committee has emphasized on several occasions the need to repeal the provisions of section 982 of the General Tax Code which allowed the authorities to impose labour for public communities on taxpayers who had not paid the civic tax. The Committee notes with satisfaction that section 982 of the General Tax Code was repealed by Act No. 09/PR/2006 of 10 March 2006 adopting the General State Budget for 2006.

2. *Article 2, paragraph 2(a), of the Convention. Work in the general interest imposed in the context of compulsory military service.* The Committee notes Ordinance No. 001/PCE/CEDNACVG/91 reorganizing the armed forces, a copy of which was provided by the Government. It notes that military service is compulsory for every citizen of Chad. Under section 14 of the Ordinance, conscripts who are fit for service are classified into two categories: the first, the size of which is determined each year by decree, is incorporated and compelled to perform active service; the second remains at the disposal of the military authorities for two years and may be called up to perform work in the general interest by order of the Government. The Committee notes that similar provisions were contained in Ordinance No. 2 of 1961 on the organization and recruitment of the armed forces of the Republic, on which it commented for many years. Indeed, these provisions are not compatible with *Article 2, paragraph 2(a), of the Convention*, under which, to be excluded from the scope of the Convention, any work or service exacted in virtue of compulsory military service laws must be of a purely military character. ***The Committee hopes that the Government will take the necessary measures to bring the provisions of section 14 of the Ordinance of 1991 reorganizing the armed forces and, as appropriate, any decrees issued thereunder, into conformity with the Convention.***

3. *Article 2, paragraph 2(c).* For many years, the Committee has been drawing the Government's attention to the need to amend or repeal section 2 of Act No. 14 of 13 November 1959 authorizing the Government to take administrative measures for the relocation, internment or expulsion of persons whose activities constitute a danger for public order and security, under which persons convicted of penal offences involving prohibition of residence may be used for work in the public interest for a period, the duration of which is to be determined by order of the Prime Minister. This provision would allow the administrative authorities to impose work on persons subject to a prohibition of residence once they have completed their sentence. The Committee notes that the Government has not provided any information in this respect in its last report and that this provision is still in force. ***It hopes that the Government will take the necessary measures without further delay to amend or repeal section 2 of Act No. 14 of 13 November 1959 referred to above.***

Comoros

Forced Labour Convention, 1930 (No. 29) (ratification: 1978)

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(1) and Article 2(1) and (2)(c), of the Convention. In the comments it has been making for many years, the Committee has drawn the Government's attention to section 1 of Order No. 68-353 of 6 April 1968, under which labour is compulsory for persons in detention. In its reports received in November 2003 and March 2004, the Government indicates yet again that the Order has not been repealed but that in practice remand prisoners are not required to perform any kind of labour, either in or outside correctional institutions. The Government again states its intention of repealing Order No. 68-353 of 6 April 1968 and indicates that a bill to repeal it will be submitted to the Central Council for Labour and Employment (CSTE) at its next meeting. As to the observation by the Union of Comoros Workers' Autonomous Trade Unions (USATC), sent by the Government with its previous report, that judicial and prison authorities have had recourse to forced labour for remand prisoners and political detainees, the Committee notes that the Government once again condemns the fact that detained workers have been forced to perform urban cleaning work and confirms that the necessary steps have been taken to prevent recurrence of such abuse.

The Committee takes note of this information and again expresses the hope that the Government will very soon be in a position to indicate that Order No. 68-353 of 6 April 1968 has been repealed or amended to ensure that persons detained without having been convicted shall work only on a voluntary basis and at their request.

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

Congo

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

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.

1. In its previous comments, the Committee noted that the Government may request the population to carry out certain sanitation jobs. The Government indicated that this practice consisted of mobilizing the population for work in the community interest and was based on section 35 of the Statutes of the Congolese Labour Party, but that it no longer exists and such tasks (weeding, sanitation work) are now undertaken voluntarily by associations and employees of the State and local communities. The Government indicates its intention of including, in the Labour Code currently being revised, a provision to establish the voluntary nature of sanitation work. ***The Committee asks the Government to provide a copy of the new provisions of the Labour Code once they are adopted.***

2. *Article 2, paragraph 2(a), of the Convention.* The Committee has several times drawn the Government's attention to section 4 of Act No. 11-66 of 22 June 1966 establishing the National People's Army and section 1 of Act No. 16 of 27 August 1981 introducing compulsory national service. The former provides for active participation by the army in tasks of economic construction for effective production and the latter stipulates that national service, which comprises both military and civic service, enables every citizen to take part in the defence and construction of the nation. The Committee drew the Government's attention to *Article 2, paragraph 2(a)*, of the Convention which provides that work or service exacted in virtue of compulsory military service laws is excluded from the scope of the Convention only when it is imposed for work of a purely military character. Work exacted from recruits as part of national service, including work related to national development, is not purely military in nature. The Committee referred in this context to paragraphs 24–33 and 49–62 of its General Survey of 1979 on the abolition of forced labour. According to the Government, the practice of imposing on recruits work which is not purely military in nature has fallen into disuse. The Committee notes that, in its last report, the Government expressed its intention of repealing Act No. 16 of 1981 on compulsory national service. ***The Committee hopes that the necessary steps will be taken to repeal the above Act in order to bring the national legislation into conformity with the Convention.***

3. In its previous comments, the Committee referred to section 17 of Act No. 31-80 of 16 December 1980 on guidance for youth under which the party and mass organizations would gradually create all the conditions for the formation of youth brigades and the organization of youth workshops. The Committee notes that, according to the Government, these practices no longer exist. It observes, however, that the abovementioned Act has not been repealed. The Committee noted that a draft decree on voluntary work for young people was in the process of being approved, and requested specific information on the type of tasks performed, the number of persons concerned, the duration and conditions of their participation. ***The Committee asks the Government to indicate the measures taken or envisaged to bring the national legislation into line with the Convention and to provide a copy of the decree on voluntary work for young people as soon as it is adopted, together with relevant information.***

4. *Article 2, paragraph 2(d).* In its previous comments, the Committee asked for the repeal of Act No. 24-60 of 11 May 1960 which allows persons to be requisitioned for work of public interest in cases which do not constitute the emergencies provided for in *Article 2, paragraph 2(d)*, of the Convention. Persons requisitioned who refuse to work are liable to a penalty of imprisonment of from one month to one year. The Committee notes the Government's indication in its report that, although it has never been repealed, Act No. 24-60 has fallen into abeyance since the publication of the Labour Code, the Penal Code and the new Constitution of 2002. ***The Committee asks the Government to provide information on the measures taken to formally repeal this Act in order to avoid any legal ambiguity.***

5. ***The Committee asks the Government to provide copies of the Order regulating the operation of prisons and prison labour.***

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

Cyprus

Abolition of Forced Labour Convention, 1957 (No. 105) (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.

Article 1(c) and (d) of the Convention. Punishment for breaches of labour discipline and for participation in strikes. For many years, the Committee has been referring to section 3(1) of the Supplies and Services (Transitional Powers) (Continuation) Act (Chapter 175A), which authorizes the issuance of orders to make effective Defence Regulations 79A and 79B for the purpose of maintaining, controlling and regulating supplies and services. Regulation 79A gives authority to direct any person to perform services for any of these purposes and to require persons employed in undertakings engaged in work regarded as essential for any such purpose, not to terminate their employment or absent themselves from work or be persistently late for work, on pain of imprisonment (involving, under the Prison Regulations, the obligation to perform labour). Regulation 79B authorizes the Government to issue further regulations to prohibit strikes, on pain of imprisonment by virtue of Regulation 94.

The Committee previously noted that the Government had proceeded with the drafting of new legislation regulating the right to strike in essential services and proposed to introduce a framework law which would be confined to defining "essential services" and "minimum service" and which would bind the parties, in the case of a labour dispute, in an essential service to follow for its settlement a procedure which would be defined and agreed upon by the parties.

The Committee notes from the Government's report, as well as from its report on the application of Convention No. 87, likewise ratified by Cyprus, that, in line with the Government's new policy to promote the regulation of strikes in essential services through consensus achieved by means of a voluntary agreement, the draft legislation was withdrawn with a view to regulating the issue through an agreement signed by the social partners, and that the Agreement on the Procedure for the Settlement of Labour Disputes in Essential Services was signed on 16 March 2004.

As regards Defence Regulations 79A and 79B, the Committee notes with interest from the Government's report that, with the signing of the above Agreement, it was also agreed that these Regulations should be repealed, and that the Office of the Attorney-General was requested to draft the relevant repealing order. The Committee also notes from the Government's report on the application of Convention No. 87, that a repealing order has already been prepared and is expected to be endorsed by the Council of Ministers shortly.

The Committee expresses the firm hope, referring also to its comments addressed to the Government under Convention No. 87, that Defence Regulations 79A and 79B will be repealed in the near future, so that participation in strikes would not be punishable with penalties involving compulsory labour and the workers concerned would remain free to terminate their employment by reasonable notice. The Committee requests the Government to supply a copy of the repealing order, as soon as it is issued.

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

Dominica

Forced Labour Convention, 1930 (No. 29) (ratification: 1983)

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

Article 1(1) and Article 2(1) and (2)(a) and (d), of the Convention. National service obligations. In its earlier comments, the Committee requested the Government to take the necessary measures with a view to repeal or amend the National Service Act, 1977, under which persons between the ages of 18 and 21 years are required to perform service with the national service, including participation in development and self-help projects concerning housing, school, construction, agriculture and road building, failure to do so being punishable with a fine and imprisonment (section 35(2)). The Committee observed that, contrary to the Government's repeated statement that the national service was created to respond to national disasters, the Act contained no reference to natural disasters, but specified the objectives of the national service, which "shall be to mobilize the energies of the people of Dominica to the fullest possible level of efficiency, to shape and direct those energies to promoting the growth and economic development of the State". The Committee also referred to Article 1(b) of the Abolition of Forced Labour Convention, 1957 (No. 105), likewise ratified by Dominica, which specifically prohibits the use of forced or compulsory labour "as a means of mobilizing and using labour for purposes of economic development".

While noting the Government's indication in its latest report that the National Service Act, 1977, has been omitted from the Revised Laws of Dominica, 1990, as well as the Government's repeated indications in its previous reports that section 35(2) of the Act has not been applied in practice, *the Committee expresses firm hope that appropriate measures will be taken in the near future in order to formally repeal the above Act so as to bring national legislation into conformity with Conventions Nos. 29 and 105 and that the Government will provide, in its next report, information on the progress made in this regard.*

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

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

Gabon

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation on the following matters.

Article 2, paragraph 2(c), of the Convention. Prison labour: prisoners hired to private enterprises or individuals. In its previous comments, the Committee noted that, under section 3 of Act No. 22/84 of 29 December 1984 establishing the rules respecting prison labour, such labour is compulsory for all convicts, subject to penalties. Prison labour includes work within and outside the prison. In the context of the latter, prisoners may be hired to private individuals or associations on condition that their labour is not in competition with free labour (section 4). The conditions for the hiring of prisoners to private individuals are determined by section 10 of the Act. The rates for the hiring of prison labour are determined annually by order of the Minister of Territorial Administration. Prisoners who are hired to work for private individuals are granted a payment which is not a wage. Finally, employment accidents occurring to prisoners are notified and compensated, in accordance with the provisions of the Social Security Code (sections 13, 15 and 17).

In this respect, the Committee drew the Government's attention to the provisions of *Article 2, paragraph 2(c)*, of the Convention, under which prisoners may not be hired or placed at the disposal of private individuals, companies or associations. The Committee has, however, considered that prison labour performed for private companies under conditions approximating those of a free employment relationship may be compatible with the Convention. This necessarily requires the voluntary consent of the prisoner. It is also necessary to ensure certain other guarantees and safeguards covering the essential elements of an employment relationship, such as the existence of an employment contract, the application of labour legislation, the payment of a wage and social security coverage. The Committee considered previously that work performed under the terms of Act No. 22/84 in the context of the hiring of prison labour does not approximate a free labour relationship.

In its report, the Government indicates that it has noted the Committee's observation and the conditions which must be fulfilled for prison labour to be hired to private individuals and that it undertakes to adopt all the necessary measures to adapt the law to the requirements of the Convention. *The Committee notes this commitment and trusts, taking into account the number of years for which it has been making these comments, that the Government will now take action expeditiously to give effect to this undertaking. The Committee would also be grateful if the Government would provide information on the use made in practice of the hiring of prison labour to private individuals.*

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

Ghana

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its observation on the following matters.

Article 1(a), (c) and (d) of the Convention

1. In comments made for a considerable number of years, the Committee has referred to provisions of the Criminal Code, the Newspaper Licensing Decree, 1973, the Merchant Shipping Act, 1963, the Protection of Property (Trade Disputes) Ordinance and the Industrial Relations Act, 1965, under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for non-observance of restrictions imposed by discretionary decision of the executive on the publication of

newspapers and the carrying on of associations, for various breaches of discipline in the merchant marine and for participation in certain forms of strikes. Having requested the Government to adopt the necessary measures in regard to these provisions to ensure that no form of forced or compulsory labour (including compulsory prison labour) might be exacted in circumstances falling within *Article 1(a), (c) or (d)* of the Convention, the Committee noted the Government's statement that the National Advisory Committee on Labour was discussing the comments of the Committee of Experts and that it was the wish of the Government to bring the legislation concerned into conformity with the Convention. The Government also indicated in its report received in 1996 that the National Advisory Committee on Labour concluded discussions on the Committee of Experts' comments and submitted recommendations to the Minister in March 1994 designed to bring domestic legislation into conformity with ILO standards, and the comments of the Committee of Experts had been submitted to the Attorney-General for a closer study and expert comments.

In its reports received in 1999 and 2001, the Government has indicated that the action of the Attorney-General to bring the legislation into conformity with the Convention in accordance with the recommendations of the National Advisory Committee on Labour has been halted in view of the proposed review and codification of the labour laws. It has also indicated that the tripartite National Forum that includes representatives of the Attorney-General's Office, the National Advisory Committee on Labour and the employers' and workers' organizations, would consider the comments made by the Committee of Experts regarding the application of the Convention.

The Government indicates in its latest report that the National Forum has already codified all the country's labour laws into a single labour bill, which is being considered by the Cabinet and will be forwarded to Parliament to be passed into law. ***The Committee expresses firm hope that the necessary action will at last be taken on the various points which are once again recalled in detail in a request addressed directly to the Government.***

2. The Committee previously noted the adoption of the Political Parties Law, 1992, the Emergency Powers Act, 1994, and the Public Order Act, 1994, which gave rise to a number of questions under the Convention that are also reiterated in the request addressed directly to the Government.

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

Jamaica

Forced Labour Convention, 1930 (No. 29) (ratification: 1962)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation on the following matters.

Article 1(1) and Article 2(1) and (2)(c), of the Convention. In its earlier comments, the Committee referred to section 155(2) of the Correctional Institution (Adult Correction Centre) Rules of 1991, under which no inmate may 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 Government indicated in its 2001 report that, under section 60(b) of the Corrections Act, as amended by the Corrections (Amendment) Act, 1995, the Minister may establish programmes under which persons serving a sentence in a correctional institution may be directed by the Superintendent to undertake work in any company or organization approved by the Commissioner, subject to such provisions as may be prescribed relating to their employment, discipline and control, and such work may be within the centre or institution or outside its limits. The Committee noted the information concerning the functioning of the Correctional Services Production Company (COSPROD), supplied by the Government in 2001 and 2002, as well as the Government's repeated statement that, under this programme, some inmates had been working under the conditions of a freely accepted employment relationship, with their formal consent and subject to guarantees regarding the payment of normal wages.

The Committee notes the Government's statement in the report that the Department of Correctional Services under the Ministry of National Security and Justice contemplates no change or deviation in its governing rules or general practices, and that there is no consideration being given to reintroducing forced labour. The Government indicates that inmates who work on farms do so willingly and without coercion.

The Committee reiterates its hope, referring also to the explanations provided in paragraphs 97–101 of its 1979 General Survey on the abolition of forced labour, that on the occasion of a future amendment of the Correctional Institution (Adult Correction Centre) Rules, section 155(2) will be amended so as to ensure that no prisoners may work for private individuals, companies, etc., except where they do so under the conditions of a freely accepted employment relationship, with their formal consent and subject to guarantees regarding the payment of normal wages and social security, etc., in order to bring this provision into conformity with the Convention and the indicated practice. The Committee again requests the Government to provide a copy of any special rules adopted under section 155(2) and to continue to provide information on its application in practice, pending the amendment.

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

Japan

Forced Labour Convention, 1930 (No. 29) (ratification: 1932)

1. The Committee refers to its last examination published in 2005 of the application of this Convention concerning the issue of sexual slavery (so-called comfort women) and industrial slavery during the Second World War. In its observation of 2005 the Committee recalled its earlier conclusion that it:

... has no mandate to rule on the legal effect of bilateral and multilateral international treaties and is therefore unable and does not finally pronounce on that legal issue. It has previously indicated its concerns about the ageing of the victims of the Government's earlier breach of the Convention and the failure of the Government to meet their expectations in spite of similarly publicly expressed views by other reputable bodies and persons on the issue. The Committee repeats its hope that the

Government will take measures in the future to respond to the claims of these victims. The Committee asks to be kept informed as to any relevant court decisions, legislation or government action.

The Committee had requested the Government to comment on communications received from workers' organizations and on any changes occurring in relation to further decisions, legislation or government action on these issues.

2. Since this last examination, the Committee has received the following observations from workers' organizations: from the Kanto Regional Council of the All Japan Shipbuilding and Engineering Union (ZENZOSEN) dated 24 May, 29 August and 9 September 2005, copies of which were forwarded to the Government on 16 September and 14 October 2005; from the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU) dated 31 August 2005, which were sent to the Government on 1 September 2005; from ZENZOSEN dated 30 May 2006, sent to the Government on 26 June 2006; and from the Tokyo Regional Council of Trade Unions (Tokyo-Chihyo) on 25 August 2006 transmitted to the Government on 14 September 2006.

3. The Committee notes the Government's communications dated 9 August and 20 October 2005, and 31 October 2006, in response to the comments of workers' organizations, as well as its report and attached comments received on 26 September 2006.

4. In addition, the Committee notes the communications on these matters sent by ZENZOSEN dated 25, 27 and 28 August 2006 and forwarded to the Government on 27 September 2006 and in relation to which it has not yet provided any comments. The Committee notes that the Government should have the opportunity to respond to those matters in its next report.

Industrial forced labour

5. The Committee notes that, according to ZENZOSEN and Tokyo-Chihyo, most of the cases of industrial forced labour brought by Chinese victims have been dismissed, usually on procedural grounds, and that the few favourable rulings in the lower courts have been reversed on appeal, also on procedural grounds. ZENZOSEN also states that in one lawsuit, filed against the Nishimatsu Construction Company, the plaintiffs won a favourable judgement in the Hiroshima High Court, which reversed a district court judgement and ordered a payment of compensation. A number of these cases were specifically referred to in these communications from the workers' organizations.

6. The Committee notes that the Government, in its report received on 26 September 2006, has referred to cases and supplied copies of judgements, which appear to coincide with the cases referred to by the workers' organizations. The Committee notes that, according to information supplied by the Government, there were 19 cases concerning this issue, 14 had been decided and other cases were pending. In each of those 14 cases which had been decided, the respective courts had dismissed the plaintiff's claims for compensation, save for one case which appears to be the lawsuit, filed against the Nishimatsu Construction Company, in which the High Court sustained the claim for compensation "concerning the atomic bomb benefit".

7. In addition, the Government also advised the Committee that the following cases were pending, being those referred to in the ZENZOSEN communication, namely in:

- the Miyazaki District Court, filed by former Chinese victims of forced labour in the Makimine mine of Miyazaki Prefecture, on 10 August 2004, against the Japanese Government and Mitsubishi Material Co.;
- the Yamagata District Court, filed on 17 December 2004, against the Japanese Government and the Sakata Land-and-Sea Transportation Company, (based in Sakata-Shi) by former victims of forced labour from the Sakata harbour in the Yamagata Prefecture;
- the Kanazawa District Court, filed by former victims of forced labour in the Nanao Land-and-Sea Transportation Company (based in Nanao-Shi) by former victims of forced labour in the Nanao harbour of the Ishikawa Prefecture, on 19 July 2005.

8. Further, the Committee also notes the Government's reference to a case in the Osaka High Court, in which a financial settlement was reached with the defendant company, Nippon Yakin Kogyo Co., Ltd, and that a related claim in which the Government is the party-defendant is still pending in the Osaka High Court.

9. The Committee notes the Government's indication that it will provide further information to the Committee about each of these pending cases in due course. The Government has also reported on cases which have been taken in the California State Court against Japanese companies, which it reported have also been dismissed.

Sexual slavery

10. The Committee notes from the communications of the FKTU and KCTU that a global petition with 200,000 signatures calling on the Government to comply with the recommendations of the United Nations Commission on Human Rights and the ILO Committee of Experts and provide an official apology and reparations, which was forwarded in March 2005 to the Director-General of the ILO by the Chairperson of the Workers' group, on behalf of the KCTU and the FKTU. The Committee further notes the information from the observation of the FKTU/KCTU, dated 25 August 2006, that 106 victims of military sexual slavery have passed away in the Republic of Korea over the past 11 years, and 11 in the last year alone.

11. The Government further reports that during the period from 1 June 2004 to 30 June 2006, six court judgements and decisions were issued in military sexual slavery cases, all of which have entailed dismissals of plaintiffs' claims for compensation.

12. The Committee notes the information from ZENZOSSEN that, in the case filed against the Government in the Tokyo District Court in 2001 concerning alleged practices of sexual violence occurring on Hainan Island in China, hearings and court sessions were concluded in March 2006, with no date set for final judgement. The Committee also notes the information from ZENZOSSEN concerning a second case by Chinese victims involving similar alleged acts in the Shanxi Province of China. According to the same information, in that case the Tokyo High Court, on 17 March 2005, upheld a lower court's ruling, finding government liability but rejecting the claims for compensation as being extinguished by the 1952 Treaty of Peace.

13. In relation to the two abovementioned cases, the Committee notes the Government's indication in its report that the Hainan Island case is still pending before the Tokyo District Court and, that in the second case, the plaintiffs have appealed the March 2005 ruling of the Tokyo High Court to the Supreme Court, where the case is still pending. The Government indicates that it will provide the Committee with information about developments in both these cases in due course.

14. In relation to the issue of the Asian Women's Fund (AWF), the Government reports among other matters that, "Since all the projects to assist former 'comfort women' have been concluded as planned, the AWF has decided to be dissolved in March 2007". The Government further states in its report, received on 26 September 2006, that it "will continue to make efforts to seek further reconciliation with the victims and obtain their understanding for the sincere sentiment of the GOJ [Government] and its people".

15. ***The Committee firmly repeats its hope that the Government will in the immediate future take measures to respond to the claims of these victims, the number of whom are continuing to decline with the passing years. The Committee asks that the Government continue to inform it about the course and outcomes of pending cases and also to provide any other related information to the Committee.***

Liberia

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters.

1. *Article 1(a) of the Convention.* In its earlier comments the Committee 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 also requested the Government to provide a copy of Decree No. 88A of 1985 relating to criticism of the Government.

The Committee has noted the Government's indication in its report that section 216 of the Election Law and Decree No. 88A of 1985 have been repealed. ***Since the copies of repealing Acts referred to by the Government as annexed to its report have not been received at the ILO, the Committee hopes that copies will soon be forwarded. The Committee also requests the Government to state whether section 52(1)(b) of the Penal Law is still in force and, if so, to indicate the measures taken with a view to ensuring observance of the Convention.***

The Committee previously noted that under a Decree adopted by the People's Redemption Council before its dissolution in July 1984, parties can be forbidden if they are considered to have engaged in activities or expressed objectives which go against the republican form of government or basic Liberian values. ***The Committee again requests the Government to indicate whether the provisions of this Decree are still in force and, if so, to provide a copy of the text of the Decree.***

2. *Article 1(c).* In its earlier comments the Committee noted that under section 347(1) and (2) of the Maritime Law, local authorities shall apprehend and deliver a seafarer who deserts from a vessel with the intention of not returning to duty and who remains unlawfully in a foreign country. Referring to paragraph 110 of its General Survey of 1979 on the abolition of forced labour, the Committee must point out that measures to ensure the due performance by a worker of his service under compulsion of law (in the form of physical constraint or the menace of a penalty) constitute forced or compulsory labour as a means of labour discipline and are thus incompatible with the Convention. ***The Committee hopes that section 347(1) and (2) of the Maritime Law will soon be repealed and that the Government will supply information on the measures taken to this end.***

The Committee also noted that under section 348 of the Maritime Law various other offences against labour discipline by seafarers such as incitement to neglect duty, assembling with others in a tumultuous manner, may be punished with imprisonment of up to five years (involving an obligation to work). The Committee referred to paragraphs 117 and 125 of its General Survey of 1979 on the abolition of forced labour where it pointed out that sanctions relating to acts tending to endanger the ship or the life or health of persons on board do not fall within the scope of the Convention. However, as regards more generally breaches of labour discipline such as desertion, absence without leave or disobedience, all sanctions involving compulsory labour should be abolished under the Convention. In a great number of maritime nations, similar penal provisions have been repealed, restricted in scope to cases involving a danger to the ship or the life or health of persons, or otherwise amended so as to provide for a fine or some other penalty not falling within the scope of the Convention. ***The Committee therefore again expresses the hope that measures will be taken to bring section 348 of the Maritime Law into conformity with the Convention, and that the Government will provide information on the action taken to this end.***

In its earlier comments the Committee referred to Decree No. 12 of 30 June 1980 prohibiting strikes. It notes with interest the Government's statement in its report that a draft law repealing the abovementioned Decree is now before the competent

authority for passing into law. *The Committee requests the Government to provide a copy of the repealing law 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.

Mauritania

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

1. *Requisitioning of persons.* The Committee notes with satisfaction that Ordinance No. 62-101 of 26 April 1962 empowering local chiefs to take certain measures necessary for the security of the State or the maintenance of public order, which gave local chiefs very broad powers to requisition persons, has been repealed by Act No. 2005-016 of 27 January 2005.

2. The issue of *the vestiges of slavery* in Mauritania and the resulting practices of forced labour has been the subject of attentive examination by the Committee of Experts and by the Committee on the Application of Standards of the International Labour Conference for several years. In this respect, the Committee notes the discussion held on the subject of the application of the Convention by Mauritania in the Committee on the Application of Standards in June 2005, following which the Conference Committee considered that, having taken into account the conflicting information on the persistence of the practices of forced labour and slavery, a fact-finding mission should be undertaken and should review the effective application of national legislation. The Government accepted this proposal and a mission visited Mauritania from 13 to 20 May 2006. The Committee notes the mission's report, and particularly its conclusions and recommendations, which were forwarded to the Government in August 2006. The Committee also notes the Government's report received in the Office on 12 October 2006, which updates the report received previously in 2005. It further notes that, in a communication received by the Office on 29 November 2006, the Government indicated that the recommendations contained in the mission's report "should be taken into account in the national strategy to combat the vestiges of slavery".

(a) Acknowledgement of the existence of the vestiges of slavery and the Government's commitment to combat them

The Committee notes the mission's indication in the conclusions of its report that "the Government considers that there still exist vestiges of slavery resulting essentially from the endemic poverty" and that it observed that "the statements made by the Mauritanian authorities on this issue had evolved and the matter was no longer taboo". In this respect, the Committee notes with interest from the information contained in the mission's report, as well as that provided in the Government's report, that the Government has taken a number of measures which illustrate its commitment in this field:

- recognition of the associations that are most active in the aspects of human rights relating to forced labour, such as SOS-Slaves and the Mauritanian Human Rights Association (AMDH);
- discussion of the problem of slavery and its vestiges during national dialogue days in October 2005. The issue was included in the recommendations emerging from the dialogue days and it was recognized that measures should be taken in this field;
- organization by the Ministry of Justice, on 24 March 2006, of a day of reflection on the ways and means of eradicating the vestiges of slavery in Mauritania, with the participation of members of the Government, civil society organizations, including human rights NGOs, *ulemas*, representatives of political parties, etc. The Committee notes that an Interministerial Committee was entrusted with examining the recommendations emerging from this day of reflection and proposed, in a communication adopted by the Council of Ministers on 12 July 2006, that "the Government solemnly and unequivocally reaffirms its will to intensify and adopt systematic measures to combat the vestiges of slavery until achieving their definitive and rapid eradication" and "the formulation, in the context of a participatory approach, of a national strategy to combat the vestiges of slavery"; and
- adoption by the Council of Ministers in July 2006 of the Ordinance establishing the National Human Rights Commission (CNDH). This independent public institution will be granted administrative and financial autonomy and will be composed of members designated to represent institutions, occupational organizations and civil society, on the one hand, and members designated to represent administrative services, on the other. The Committee notes that the functions of the CNDH include "promoting awareness of human rights and combating all forms of discrimination and violations against human dignity, including ... slave-like practices ..., by alerting public opinion through information, communication and education, and by calling on all press bodies".

(b) Applicable legislation

In its previous comments, the Committee noted that section 5 of the new Labour Code prohibits forced labour, defined as work or service which is exacted from a person under the menace of any penalty and for which the said person has not offered herself or himself voluntarily, and that any violation of this prohibition is punishable by the penal sanctions established in Act No. 2003-025 of 17 July 2003 punishing the trafficking of persons. The Committee expressed

its concern regarding the possible consequences in practice of the fact that the general prohibition of forced labour is contained in the Labour Code, while the penalties are set out in a specific law penalizing another offence.

The Committee notes that the objective of the fact-finding mission was to obtain information on the national legislation and review whether it is adequate and effectively applied to bring an end to the vestiges of slavery. The report indicates that the shortcomings of the legislation were emphasized by many of those interviewed by the mission, including the Minister of Justice, who recognized the need to clarify the legislation and emphasized the necessity of defining slave-like practices more precisely and establishing adequate penalties in the context of the reform of the Penal Code. In this respect, the Committee endorses the recommendations of the mission, which “considers that the definition of the elements constituting slave-like practices and their penalization would allow to strengthen the legal provisions”. *The Committee hopes that, as recommended in the mission’s report, the Government will take the necessary measures to “adopt a text clearly penalizing slave-like practices and defining in precise terms their constituent elements so as to enable the judiciary to apply it easily” and to “include these juridical innovations in the general context of the current reform of the Penal Code”.*

(c) *Effective application of the legislation*

In its previous comments, the Committee requested the Government to provide information on the jurisdictions that are competent to receive complaints and the penalties imposed for violations of the prohibition of forced labour, including the number of complaints lodged and copies of the respective court decisions.

The Committee notes that, in its conclusions, the mission finds that “up to now, the national jurisdictions have never had to examine allegations relating to practices of forced labour or slavery. When investigations are conducted, the term slavery is never used to describe the facts, which excludes the possibility of legal proceedings being initiated on these grounds.” The report and the information provided by the Government in its report on the application of the Convention show that victims encounter difficulties in being heard and in asserting their rights both at the level of the public authorities and the judicial authorities.

However, the Committee notes that measures have been adopted in this field. Thus, the Committee notes the Circular of 2 January 2006 addressed by the Minister of the Interior to Walis, Hakems and local chiefs, following the recommendations adopted by the dialogue days on the process of democratic transition, when it was decided that measures were to be taken to combat the vestiges of slavery. In this Circular, the Minister called on these representatives of the State “to enforce the law, particularly with regard to the vestiges of the phenomenon of slavery”, to deal with cases which come to their knowledge “with the required rigour and to bring cases that lie within their competence to justice. In any event, the law remains the sole reference point in this regard.” The Committee also notes that the Minister of Justice indicated to the mission in this respect that he had personally issued instructions to the prosecution services to make on-the-spot visits when an allegation relating to the vestiges of slavery is brought to their knowledge and to investigate it.

With regard to the access of victims to justice, the Committee notes the adoption, on 26 January 2006, of Ordinance No. 2006-005 respecting legal assistance, the objective of which is to provide legal and judicial assistance to the most underprivileged categories of persons.

The Committee recalls that, under the terms of *Article 25 of the Convention*, States which ratify the Convention are under the obligation to ensure that the penalties imposed by law are really adequate and are strictly enforced. While aware of the difficulties faced by the judicial system and the reticence which may exist with regard to the issue of the vestiges of slavery, the Committee considers that it is important that the measures adopted by the Government to bring an end to the vestiges of slavery (in terms of awareness raising, poverty reduction, etc.) are based on a reliable judicial system capable of applying dissuasive penalties to perpetrators. *The Committee therefore hopes that the Government will take the necessary measures to give effect to the recommendations of the mission calling upon the Government to “continue making every effort to ensure: that the competent authorities (prosecutors, magistrates and the police forces) order or undertake rapid and impartial investigations in the event of complaints relating to slavery and its manifestations; that the classification of the facts is not deceptive; that, where they are genuine, such cases are referred to the competent jurisdictions and treated as a priority, and that, where appropriate, the penalties applied are sufficiently dissuasive”.*

(d) *National strategy to combat the vestiges of slavery*

The Committee notes that the mission emphasizes in its report that problems related to slavery and its various vestiges “have a variety of causes which have their roots in the weight of tradition, culture and religious beliefs and are reinforced by the situation of economic dependence of the victims” and that “the Government has an essential role to play as a catalyst for change. It therefore has to adopt an active policy and adequate legislative measures.” The Committee notes that, since then, the Council of Ministers adopted, on 12 July 2006, the principle of the “formulation, in the context of a participatory approach, of a national strategy to combat the vestiges of slavery. This strategy, which will be subject to a continuous process of monitoring, will have the objective of identifying and proposing all measures conducive to eliminating the vestiges of slavery, particularly in the light of the recommendations made by the national dialogue days.” It also notes that an Interministerial Committee was established for this purpose in October 2006.

The Committee considers that, in the context of this strategy, it is important, as emphasized by the mission in its report, to have available “reliable information as a basis for assessing the scope of the phenomenon of slavery and its

characteristics”. The absence of such data could “constitute an obstacle to the implementation of an effective policy to combat the phenomenon.” *The Committee hopes that the Government will be able to conduct such a study with the technical assistance of the Office and of other international organizations which have indicated their interest in cooperating with the Government in this field. Such a study would offer better guidance for the action to be taken by the public authorities and would help in targeting the populations and geographical areas concerned.*

In more general terms, the Committee requests the Government to provide detailed information in its next report on the implementation of the national strategy to combat the vestiges of slavery. It hopes that, when determining this strategy, the Government will take into account all the recommendations made by the mission, as it indicated in a communication sent to the Office in November 2006. The Committee considers in this respect that all the actors that have a role to play in combating these practices, including the social partners, the police and law enforcement agencies, the judicial system, the labour inspectorate and civil society, including religious authorities, should be stakeholders in this strategy. It also hopes that, among the measures to be adopted in the context of this national strategy, the Government will take into account the need to conduct awareness-raising activities at the national, regional and local levels targeted at all the actors referred to above. Similarly, poverty reduction programmes will need to be implemented in the framework of concerted action, specifically targeting the communities in which the phenomenon of the vestiges of slavery is known and persists, to prevent vulnerable persons becoming victims of these practices once again.

Mexico

Forced Labour Convention, 1930 (No. 29) (ratification: 1934)

1. *Human trafficking.* In earlier observations, the Committee noted the comments made by the International Confederation of Free Trade Unions (ICFTU) concerning the trafficking of women and girls both in and outside the country for the purpose of forced prostitution. With regard to the trafficking of young persons in particular, bearing in mind that Article 3(a) of the Worst Forms of Child Labour Convention, 1999 (No. 182) provides that the term “worst forms of child labour” comprises “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour”, the Committee is of the view that the problem of the sale and trafficking of children for the purpose of sexual exploitation, particularly prostitution, can be examined more specifically in the context of Convention No. 182.

2. With regard to the examination of trafficking for the purpose of sexual and labour exploitation in the light of the obligations laid down in the Convention, the Committee observed previously that this practice falls within the scope of the Convention and constitutes a serious breach of it.

3. In its report, the Government expresses concern that the Committee continues to deal with a matter which, in the Government’s view, falls outside the scope of the Convention. The Government observes that the Convention contains no provisions on trafficking, which is dealt with in other international instruments and particularly the United Nations Convention against Transnational Organized Crime and its Protocol. The Committee would point out that any situation where someone is sexually exploited or forced to work without his or her valid consent, regardless of whether trafficking is involved, falls within the scope of the Convention by virtue of its definition of forced labour. Furthermore, the fact that there is an international instrument devoted specifically to trafficking does not exempt a State from the obligations it undertakes on ratifying the Convention. The fact that trafficking is defined in the Palermo Protocol contributes to more effective application of both instruments. An essential component of the Protocol’s definition is the purpose of the trafficking, namely exploitation, the definition of which expressly refers to forced labour or services, slavery or practices similar to slavery, servitude and the various forms of sexual exploitation. The forced labour component of this definition provides the link between the Palermo Protocol and Convention No. 29, indicating clearly that human trafficking for the purpose of exploitation falls within the definition of forced or compulsory labour in *Article 2, paragraph 1, of the Convention*.

4. In its previous observation, the Committee noted the Government’s information on the provisions of the national legislation to prevent, suppress and punish human trafficking: sections 206–208 (trafficking and procuring of persons) and 366ter (trafficking of young persons) of the Penal Code and section 2(V) of the Federal Act against Organized Crime.

5. The Committee also noted the measures to encourage victims to report their cases to the authorities, including authorization to remain in the country at least for the duration of the legal proceedings, and possibly to reside permanently, and protection against reprisals. The Committee requested the Government to indicate and provide copies of the relevant provisions.

6. The Committee noted the Government’s information that “the penal legislation imposes heavier penalties in cases where persons reporting crimes, witnesses or family members are intimidated (Federal Penal Code, section 219)”. The Committee noted that this provision establishes the crime of intimidation committed by public servants and asked the Government to indicate the provisions applying to persons who resort to intimidation and who are not members of the public service. *The Committee also expresses the hope that the Government will provide information on the number of sentences imposed upon public servants for the crime of intimidation, with copies of the rulings made under the above provision.*

7. In response to the Government's statement that in practice it varies the measures it takes to suit the type and circumstances of the risk incurred by the person to whom protection is provided, the Committee requested the Government to provide copies of the provisions envisaging such protection and to indicate the measures concerned. *The Committee hopes that this information will be provided with the Government's next report.*

8. *The Committee again asks the Government for information on any penalties imposed for human trafficking in accordance with the requirement in Article 25 of the Convention that the illegal exaction of forced or compulsory labour shall be punishable as a penal offence and that the penalties imposed must be really adequate and strictly enforced.*

9. The Committee notes that the Senate has approved the Act against Trafficking in Persons, which will enable such trafficking to be prevented and punished more effectively. *The Committee hopes that the Government will provide information on the promulgation of the Act and on any other measures taken or envisaged to ensure observance of the Convention.*

Myanmar

Forced Labour Convention, 1930 (No. 29) (ratification: 1955)

I. Historical background

1. The Committee, as it noted in its previous observation, has been commenting on this extremely serious case since its first observation more than 30 years ago. The grave situation in Myanmar has also been the subject of overwhelming criticism and condemnation in the Conference Committee on the Application of Standards of the International Labour Conference on ten occasions between 1992 and 2006, in the International Labour Conference at its 88th Session in June 2000 and again at its 95th Session in 2006, and in the Governing Body, by governments and social partners alike. The history is set out in detail in the previous observations of this Committee in more recent years, particularly since 1999.

2. The major focus of the criticisms by each of the ILO bodies relates to the outcome of a Commission of Inquiry appointed by the Governing Body in March 1997 following a complaint submitted in June 1996 under article 26 of the Constitution. The Commission of Inquiry concluded that the Convention was violated in national law and in practice in a widespread and systematic manner, and it made the following recommendations:

- (1) that the relevant legislative texts, in particular the Village Act and the Towns Act, be brought into line with the Convention;
- (2) that in actual practice, no more forced or compulsory labour be imposed by the authorities, in particular the military; and
- (3) that the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced or compulsory labour be strictly enforced.

The Commission of Inquiry emphasized that, besides amending the legislation, concrete action needed to be taken immediately to bring an end to the exaction of forced labour in practice, in particular by the military.

3. In its previous observations the Committee of Experts identified four areas in which measures should be taken by the Government to achieve this outcome:

- issuing specific and concrete instructions to the civilian and military authorities;
- ensuring that the prohibition of forced labour is given wide publicity;
- providing for the budgeting of adequate means for the replacement of forced or unpaid labour; and
- ensuring the enforcement of the prohibition of forced labour.

4. The flagrant continuing breaches of the Convention by the Government and the failure to comply with the recommendations of the Commission of Inquiry and the observations of the Committee of Experts and other matters arising from the discussion in the other bodies of the ILO, led to the unprecedented exercise of article 33 of the Constitution by the Governing Body at its 277th Session in March 2000, followed by the adoption of a resolution by the Conference at its June 2000 session.

II. Developments since the Committee's last observation

5. The Committee notes the documents submitted to the Governing Body at its 295th and 297th Sessions (March and November 2006) on developments concerning the question of the observance by the Government of Myanmar of Convention No. 29, as well as the discussions and conclusions of the Governing Body during these sessions, and of those of the Conference Committee on the Application of Standards and the Conference Selection Committee during the 95th Session of the International Labour Conference in June 2006.

6. The Committee also notes the Government's report, received in communications on 29 September and 23 October 2006, and the comments by the then International Confederation of Free Trade Unions (ICFTU) (now the International Trade Union Confederation (ITUC)), contained in a communication, dated 31 August 2006 and received on

5 September 2006, which was accompanied by a number of attached reports that document the persistence in 2006 of the use of forced labour in Myanmar. In summarizing the material forwarded, the ICFTU reports that in 2006:

[...] the overall picture continues to be very grim. This report includes evidence of government-imposed forced labour in nearly every State and Division of the country, ranging from forced portering, forced labour in “development projects”, construction or maintenance of infrastructure or army camps, forced patrolling and sentry duty, clearing or beautification of designated areas, child labour including the forced conscription of child soldiers, sexual slavery, human minesweeping, and confiscation of land, crops, cattle and/or money.

The communication of the ICFTU was forwarded to the Government by letter dated 31 August 2006 together with the indication that, in accordance with established practice, the communication of the ICFTU would be brought to the attention of the Committee together with any comments that the Government would wish to make in response. ***The Government has not responded in its own report to this very troubling information, and the Committee requests the Government to do so in its next report.***

7. In its previous observation, the Committee noted comments from the ICFTU contained in a communication dated 31 August 2005 received on 12 September 2005, which was accompanied by some 1,100 pages of documents from many sources, reporting on the persistence in 2005 of the use of forced labour in Myanmar. The Committee requested the Government to respond to this information in its report submitted in 2006. ***The Committee notes that the latest report received from the Government does not contain a response as requested, and the Committee therefore once again asks the Government, in its next report, to respond to this earlier information, in addition to the communication referred to above from the ICFTU in 2006.***

III. Addressing the recommendations of the Commission of Inquiry

8. As noted above, the Committee has in its previous observation set out the matters that the Government needs to address as a consequence of the Commission of Inquiry and its findings and recommendations. The Committee observes that these matters remain unaddressed, and that it is therefore bound to repeat them in detail.

(1) Ensuring the enforcement of the prohibition of forced labour – monitoring and complaints machinery

9. The Committee has previously noted that measures taken by the Government to ensure the enforcement of the prohibition of forced labour included the establishment of seven field observation teams empowered to carry out investigations into allegations of the use of forced labour, the findings of which were submitted to an organ called the Convention No. 29 Implementation Committee. It also previously noted that on 1 March 2005, the Office of the Commander-in-Chief (army) established a “focal point” in the army headed by a Deputy Adjutant-General and assisted by seven grade 1 staff officers, which the Government indicated to the Liaison Officer a.i. was intended “to facilitate cooperation with the ILO on cases of forced labour concerning the military” (GB.292/7/2(Add.), paragraph 3). In its previous observation the Committee, noting reports of the Liaison Officer a.i. and other information, noted with extreme concern that the assessments made by these organs appeared to lack independence and credibility.

10. In its previous observation the Committee also noted with concern that, according to a report submitted for discussion to the 294th Session of the Governing Body in November 2005 (GB.294/6/2), “recent developments have seriously undermined the ability of the Liaison Officer a.i. to perform his functions” (paragraph 7), and that, while he had continued to receive complaints from victims or their representatives concerning ongoing forced labour or forced recruitment, he was unable to refer these cases to the competent authorities as he did in the past, in part because of the Government’s policy of prosecuting victims for allegedly false complaints of forced labour (paragraph 8).

11. The Committee notes the following matters:

- that, according to a report on recent activities of the Liaison Officer a.i., submitted “for debate and guidance” to the 295th Session of the Governing Body in March 2006, the Liaison Officer a.i. wrote on 7 December 2005 to the designated army focal point for the ILO to request a meeting, and that no response was received to this request (GB.295/7, paragraph 8);
- that in November 2005 the Government, through the Minister for Labour in Yangon and the Permanent Representative in Geneva, rejected the proposal of the International Labour Office (“Office”) for a complaint mechanism involving a facilitator (GB.295/7, paragraph 15), and that it has since reaffirmed its rejection of that proposal;
- that the Office subsequently developed two alternative options: one, known as Option-I, entails a proposal to build up the capacity of the Office of the ILO Liaison Officer a.i. and provide sufficient legal guarantees to credibly address the complaints received and sufficient resources and personnel to meet its additional responsibilities (GB.297/8/1, paragraph 16 and Appendix III). The second option, known as Option-II, is a proposal for a “Joint Panel” mechanism, which would involve a panel composed of two members with required credentials appointed by the two sides, and a third person appointed by an unimpeachable institution to arbitrate in cases of possible disagreement, and which would confidentially address complaints submitted by alleged victims and make a prima facie determination of the validity of the complaint;

- that the Government rejected the proposal of the Office for a Joint Panel mechanism, the so-called Option-II, during discussions between representatives of the Office and the Minister for Labour in Yangon in March 2006 (GB.295/7, paragraph 22), and it reaffirmed its rejection in the Conference Committee on the Application of Standards in June 2006;
- that the Government representative announced in the Special Sitting of the Conference Committee in June 2006, the willingness of the Government to put into place, “on an experimental basis”, a six-month moratorium on the continued implementation of its policy of prosecuting complainants who lodge “false allegations” of forced labour. In addition, that during the period of the moratorium the Government would cooperate with the Office in working out a mechanism under the so-called Option-I, the proposal for a system built upon the framework of the existing Office of the Liaison Officer a.i.;
- that the Conference Committee in its conclusions of June 2006 indicated that the proposal of a moratorium was “late and limited”, and that “words had to be urgently confirmed and completed by deeds”, including by the cessation of prosecutions currently under way, and that the government authorities needed to immediately enter into discussions with the ILO, with a view to establishing as soon as possible a credible mechanism for dealing with complaints of forced labour;
- that the Conference Selection Committee, to which the Conference referred the matter for a separate examination, indicated that a real test of cooperation from the Government would entail, among other things, steps taken: to immediately enter into discussions with the ILO, with a view to establishing as soon as possible a credible mechanism for dealing with complaints of forced labour. Further, with regard to its moratorium on prosecutions of complainants, the Government should provide further details on how the moratorium would be applied so as to make it clear that anyone lodging a complaint during the moratorium would have immunity from any subsequent action being taken against them; and to demonstrate such that the moratorium would be considered strictly binding (GB.297/8/1, Appendix I);
- that developments subsequently occurred in three prominent cases of government prosecutions: the release of Su Su Nway on 6 June 2006; the release on 8 July 2006 of Aye Myint from prison after his sentence was conditionally suspended; and the acquittal on 20 September 2006 of the three persons in Aunglan Township (Magway Division) of charges of making false complaints of forced labour, following withdrawal of the case by the authorities. As noted in the report on developments submitted by the Office to the Governing Body “for debate and guidance” during its 297th Session in November 2006 (GB.297/8/1, paragraph 5), the Liaison Officer a.i. reported that to his knowledge these developments resolved all the outstanding cases of prosecution or imprisonment of persons having an ILO connection (GB.297/8/1, paragraph 5);
- that, during discussions in Yangon in October 2006 between the Minister for Labour and a specially designated working group, on the one hand, and representatives of the International Labour Office, it became clear that the Government was not prepared to accept so-called Option-I, the proposal by the Office for a complaint mechanism that involved strengthening the Office of the ILO Liaison Officer a.i. with adequate resources and staffing. Further, that contrary to previous expressions of willingness to consider Option-I, and notwithstanding a compromise proposal offered by the Office during the discussions in October, the Government signalled that it was willing to accept little more than a continuation of the present functioning of the Office of the ILO Liaison Officer a.i., as that mechanism was originally conceived and structured.

12. *The Committee fully concurs with the views expressed by the Governing Body, as well as by the Conference Committee on the Application of Standards and the Conference Selection Committee, that it is imperative that the Government institute an effective complaint mechanism, such as any of the three already proposed by the Office, as a channel for the treatment of complaints that both protects the victims and leads to the prosecution, punishment and imposition of sanctions against those responsible for the exaction of forced labour, so as to ensure compliance with Article 25 of the Convention. This further requires that the Government permanently revoke its policy of prosecuting persons who complain that they are victims of forced labour, a policy which, in its implementation, defeats the very purpose of a complaint mechanism which depends for its effectiveness, in part, on the ability of victims of forced labour to lodge complaints without fear of reprisals, and that, instead, it take increased action to prosecute perpetrators of forced labour. The Committee on these issues also requests the Government to cooperate more closely and in good faith with both the Liaison Officer a.i. and the Office. The Committee considers that, in doing so, the Government will also thereby be demonstrating its readiness to seriously address the further matters necessitated by the recommendations of the Commission of Inquiry as set out in further detail below.*

(2) *Need to amend the relevant legislative texts, in particular the Village Act and the Towns Act, in order to bring them into line with the Convention*

13. This remains the position of the Committee. At the same time, the Committee has noted an “Order directing not to exercise powers under certain provisions of the Towns Act, 1907, and the Village Act, 1908”, Order No. 1/99, as modified by an “Order Supplementing Order No. 1/99”, dated 27 October 2000, and it has accepted that these provisions

could provide a statutory basis for ensuring compliance with the Convention in practice. However, the Committee has made clear that this would require bona fide effect to be given to the Orders by the local authorities and by civilian and military officers empowered to requisition or assist with requisition under the Acts.

14. The Committee has indicated that the latter would necessitate two things:

- issuing specific and concrete instructions to the civilian and military authorities; and
- ensuring that the prohibition of forced labour is given wide publicity.

(3) *Issuing specific and concrete instructions to the civilian and military authorities*

15. On this topic the Committee in its previous comment noted references to a series of texts, instructions and letters made by the Government in its report of that year. It acknowledged that these communications appeared to be in part a response to previous Committee requests that instructions be transmitted to authorities in the military indicating that forced labour has been declared unlawful in Myanmar. However, the Committee noted that it had been given minimal and in most instances no information as to the content of the communications. It considered this to be a matter of real concern as the Committee had previously expressed that clear and effectively conveyed instructions were required to indicate the kinds of practices that constitute forced labour and for which the requisitioning of labour is prohibited, as well as the manner in which the same tasks could be performed without use of forced labour. The Committee has previously enumerated a number of tasks and practices that need to be specifically identified in this regard, and it does so once again:

- portering for the military (or other military/paramilitary groups, for military campaigns or regular patrols);
- construction or repair of military camps/facilities;
- other support for camps (guides, messengers, cooks, cleaners, etc.);
- income-generation by individuals or groups (including work in army-owned agricultural and industrial projects);
- national or local infrastructure projects (including roads, railways, dams, etc.);
- cleaning/beautification of rural or urban areas; and
- the supply of materials or provisions of any kind, which must be prohibited in the same way as demands for money (except where due to the State or to a municipal authority under the relevant legislation) since, in practice, demands by the military for money or services are often interchangeable.

16. In its previous observation the Committee considered that the starting point for the eradication of forced labour was to give very clear and concrete instructions to the authorities of the kinds of practices that constitute forced labour. It observed that the lack of information, except for the content of a single communication, suggested that this did not appear to have been done. It did not appear to the Committee to be a difficult exercise to construct the content of written instructions that would take account of these concerns and include all the above elements.

17. Having regard to the Government's expression of preparedness to continue cooperation with the ILO, the Committee suggested that the elaboration of such instructions could be the topic of such cooperation, and that this might, for example, be done through the Liaison Officer a.i. or some other similar ILO liaison. The Committee asked that in its next report the Government supply information about the measures it had taken on this point, and that it also supply copies of the precise texts of the letters and instructions to which it has referred and in addition a translated version of each.

18. The Committee notes that in its latest report the Government has not supplied any of the information requested, nor has it otherwise addressed the concerns of the Committee on this point. The Committee notes that, from the report of the proceedings recorded in the 95th Session of the Conference in June 2006, and from the Conference Committee on the Application of Standards, the Government representative briefly replied to the concerns the Committee had raised; and that, with regard to the issuance of instructions to the civilian and military authorities:

As far as possible, English translations of the texts of these instructions had been supplied to the Committee of Experts. With regard to the instructions and correspondence issued by the Ministry of Defence, he emphasized that not all of these were made available to other ministries and departments of the Government as a matter of principle as they involved the national security interests of the country. Therefore, it was impossible to provide copies or English translations of such correspondence or instructions to a body of an international organization.

The Committee once again requests that in its next report the Government supply information about the measures it has taken on this point, and that it supply copies of the precise texts of the letters and instructions to which it has previously referred, including a translated version of each.

(4) *Ensuring that the prohibition of forced labour is given wide publicity*

19. On this topic, the Committee noted in its previous observation that the Government in its report had made reference to a series of letters, briefings and awareness-raising workshops, which it stated represented efforts by the authorities to publicize the prohibitions on forced labour. The Committee acknowledged that, accepting the information supplied by the Government at face value, efforts appeared to have been made by the Government to transmit information about the fact that forced labour has been declared unlawful in Myanmar. However, as with the communications referred to earlier, the Committee had been given no information as to the content of these activities. This again was a matter of

real concern, as the Committee considered it had no confidence that the briefings and workshops had been effective in conveying the information. As previously expressed, these workshops and briefings needed to clearly and effectively convey instructions about the kinds of practices that constitute forced labour and for which the requisitioning of labour is prohibited, as well as the manner in which the same tasks could be performed without use of forced labour. The Committee considered that, if trouble had been taken to undertake activities, then again it did not appear to be a difficult exercise to construct the content of the briefings and workshops to take account of these concerns.

20. The Committee again suggested that the construction of such communications to address its concerns, thereby avoiding the need for it to continue repeating this point, could be a topic pursued in the framework of cooperation with the ILO. ***In addition, having regard to the fact that the Liaison Officer a.i. had had an opportunity to attend one of these events in the past, the Committee requests that the Liaison Officer a.i. be informed in advance when briefings or workshops were to be held and to give him an opportunity to attend such events if he was able.*** The Committee considers that such access would demonstrate in a real way the commitment of the Government to the overall objective of the elimination of forced labour in Myanmar.

21. The Committee notes that, in its latest report, the Government has not supplied the information requested or otherwise addressed the concerns of the Committee on this point. The Committee notes the remark by the Government representative in the Conference Committee in June 2006 which stated:

Turning to the question of ensuring wide publicity on the prohibition of forced labour, he referred to the fact that in the past the ILO Liaison Officer a.i. had been allowed to attend a workshop in Myeik Township in Tanintharyi Division and another in Kawhmu Township in Yangon Division. His Government would try its best to accommodate the attendance of the ILO Liaison Officer a.i. at any future events if and when they were held.

The Committee again requests that the Government in its next report supply information which describes the content of the communications in the briefings, workshops and seminars on the prohibition of forced labour it has previously referred to, as well as translated copies of any material or documents used in connection with such briefings or workshops. In addition, the Committee requests once again that the Government supply information about measures it has taken to ensure that the Liaison Officer a.i. will be informed in advance when such activities are to be conducted, in order that he or she be given an opportunity to attend if able to.

(5) Providing for the budgeting of adequate means for the replacement of forced or unpaid labour

22. In its recommendations, the Commission of Inquiry emphasized the need to budget for adequate means to hire paid wage labour for the public activities which are today based on forced and unpaid labour. In its previous observations, the Committee pursued this matter and sought to obtain concrete evidence that adequate means are budgeted to hire voluntary paid labour. The Government has addressed this concern with repeated statements that there is always a budget allotment for each and every project and with allocations that include the cost of material and labour. The Committee has previously observed, however, that in practice forced labour continues to be imposed in many parts of the country, in particular in those areas with a heavy presence of the army, and that the budgetary allocations that may exist are apparently not adequate to make recourse to forced labour unnecessary.

23. The Committee recalls that in its previous report, the Government stated that it had issued instructions to the various ministries to provide an estimate of the labour costs of their respective projects. The Committee in its previous observation noted a reference in the Government's report to "a budget allotment" set up by the Myanmar police force for the payment of wages of workers "called upon to contribute labour on an ad-hoc basis". While noting these matters, the Committee asked the Government in its next report to provide detailed information about the measures taken to budget for adequate means for the replacement of forced or unpaid labour, considering that this information would demonstrate in a real way the commitment of the Government to the overall objective of the elimination of forced labour in Myanmar.

24. The Committee notes that in its latest report the Government has not supplied the requested information on this point. It notes that in the Conference Committee in June 2006, the representative of the Government stated that: "With regard to providing an adequate budget for the replacement of forced or unpaid labour, he informed the Committee that the allocation of adequate funds had been made in the state budget. The Government would provide the Committee of Experts in due course with the relevant information on the allocation of this budget." ***The Committee therefore repeats its request that the Government, in its next report, provide detailed information about the measures taken to budget for adequate means for the replacement of forced or unpaid labour.***

IV. Final remarks

25. In addition to the communication dated 31 August 2006 and attached reports received from the ICFTU, to which the Committee has previously referred, the Committee notes the evaluation by the Liaison Officer a.i. of the forced labour situation from the section of the report under the heading, "Latest developments since March 2006", of the Conference Committee at the 95th Session of the Conference in June 2006:

The Liaison Officer a.i. continues to receive allegations of forced labour. Although not in a position to verify the details himself, he is particularly concerned about persistent and detailed accounts – from sources both within Myanmar and across the border in Thailand – of forced labour being exacted by the army over the last few months in the context of military operations in northern Kayin (Karen) State. In addition to villagers being forced to accompany army columns as porters (along with convicts

from prisons), owners of bullock carts were reportedly forced to transport food and other supplies to front-line troops. (C.App./D.5, paragraph 10.)

26. The Committee also notes the discussions and conclusions concerning Myanmar of the Governing Body at its 297th Session in November 2006. In its conclusions, the Governing Body indicated that great frustration had been expressed that the authorities had not been able to agree on a mechanism to deal with forced labour complaints within the framework set out in the Conference conclusions; that they had missed a critical opportunity (during the October 2006 discussions) to demonstrate a real commitment to cooperating with the ILO to resolve the problem of forced labour; and that at the same time there was widespread and profound concern that the practice of forced labour in Myanmar was continuing. The Governing Body concluded, among other things, that the Myanmar authorities should, as a matter of utmost urgency and in good faith, conclude with the Office an agreement on a credible mechanism to deal with complaints of forced labour, on the specific basis of the compromise text proposed by the ILO in October 2006, and also that, irrespective of the status of the Government's moratorium on the prosecution of complainants, any further move to prosecute complainants would open the way to international legal steps on the basis of article 37.1 of the ILO Constitution, in accordance with the conclusions of the Conference Selection Committee in June 2006. The Governing Body indicated that a specific item would be placed on the agenda of its March 2007 session, in order to allow legal options to be considered, including the possibility of requesting an advisory opinion of the International Court of Justice on specific legal questions, and that the Governing Body in March 2007 would revisit the question of placing a specific item on the agenda of the 2007 session of the Conference, in order to allow it to review what further action may be taken.

27. *The Committee fully concurs with the views expressed by the Governing Body, and it also trusts that the implementation of the very explicit practical requests made by this Committee to the Government will demonstrate the true commitment of the Government to rectify the violations of the Convention identified by the Commission of Inquiry and resolve this long-running problem of forced labour to which there does exist a solution.*

Russian Federation

Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

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.

Trafficking in persons

The Committee has noted the Government's reply to a communication dated 2 September 2002 of the International Confederation of Free Trade Unions (ICFTU) submitting comments concerning the problem of trafficking in persons for the purpose of sexual and labour exploitation.

The ICFTU alleged that thousands of persons were trafficked from the Russian Federation to other countries, including Canada, China, Germany, Israel, Italy, Japan, Spain, Thailand and the United States. The victims often find themselves in debt bondage as they owe the traffickers recruitment and transport costs which are then inflated with charges for food, accommodation and interest on the debt. It is also alleged that internal trafficking within the Russian Federation is taking place; women are generally forced to work as prostitutes while men are trafficked into agricultural or construction work. There are also said to be confirmed cases of children being trafficked for sexual exploitation.

The ICFTU considered that the absence of specific anti-trafficking legislation and the lack of specialized training in law enforcement were serious impediments to preventing people from being subjected to trafficking and forced labour, and that the lack of adequate resources available for providing support and assistance to victims who have returned to the Russian Federation leaves them vulnerable to being re-trafficked.

The Committee has noted from the Government's reply that the Criminal Code contains provisions punishing trafficking in minors (section 152), as well as abduction (section 126) and various sexual crimes (sections 132 and 133). It has noted with interest the ratification by the Russian Federation of the Worst Forms of Child Labour Convention, 1999 (No. 182). The Committee has also noted that the Russian Federation has signed the UN Convention against Transnational Organized Crime and its supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

The Committee has noted the Government's indications in the report concerning the practical measures to combat trafficking in women taken in cooperation with the neighbouring States, e.g. within the framework of the Council of the Baltic Sea States, and joint police operations conducted to liberate girls who were trafficked and illegally detained in Turkey, Greece and Italy in 2000–02. The report also contains information on the development of a network of shelters and other measures to protect the victims of trafficking, as well as on the awareness-raising campaign launched in collaboration with the media and NGOs.

The Committee has noted the elaboration of a draft Law on Combating Trafficking in Human Beings which provides for a system of bodies to combat trafficking and contains provisions concerning prevention of trafficking, as well as protection and rehabilitation of victims. As regards punishment of perpetrators, the Committee has noted the Government's indications concerning the amendments introduced to the Criminal Code, which define crimes related to trafficking and provides for severe sanctions of imprisonment. *The Committee hopes that the new Law on combating trafficking will soon be adopted, and that the Government will supply a copy thereof for examination by the Committee. The Committee would also appreciate it if the Government would continue to provide information on the practical measures taken or envisaged to combat trafficking in human beings with a view to eliminating it.*

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

United States

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1991)

The Committee notes the report and attached documents received from the Government.

Punishment for participation in a strike

1. In observations addressed to the Government for several years, the Committee has noted that, under article 12, section 95-98.1, of the North Carolina General Statutes, strikes by public employees are declared illegal and against the public policy of the state. Under section 95-99, any violation of the provisions of article 12 is declared to be a class 1 misdemeanour. Under section 15A-1340.23, read together with section 15A-1340.11 of Chapter 15A (Criminal Procedure Act), a person convicted of a class 1 misdemeanour may be sentenced to “community punishment” and, upon a second conviction, to “active punishment”, that is, imprisonment. Article 3 (Labour of Prisoners), section 148-26, of Chapter 148 (State Prison System) declares it to be the public policy of the state of North Carolina that all able-bodied prison inmates shall be required to perform diligently all work assignments provided for them.

2. The Committee notes from its latest report the Government’s indication that North Carolina judges have the discretion to impose fines and/or community punishment in class 1 misdemeanour cases, and its repeated assertion that “fines – not community service – are imposed on most class 1 misdemeanour cases”. The Committee notes the Government’s further indication that it would be “hypothetically possible” for a North Carolina state employee to be arrested, tried, convicted and sentenced for engaging in an illegal strike under state law and, as a consequence, to “be subject to the state’s requirement that such prisoners work”. The Government repeats its view, however, that “North Carolina law and practice are consistent with the letter and the spirit” of the Convention, and that “no measures have been – or need to be – taken to change that state’s law”.

3. The Committee notes the “Compendium of Community Corrections Programs in North Carolina, Fiscal Year 2004–05”, published in January 2006 by the North Carolina Sentencing and Policy Advisory Commission, which explains that the imposition of community punishment may include assignment to the state’s Community Service Work Program (CSWP). The report states: “The CSWP is an alternative to incarceration imposed as part of a community punishment or DWI sentence, or in some cases as the sole condition of unsupervised probation.” The report states elsewhere: “CSWP is a community punishment. It is also used as a sanctioning tool at every stage of the criminal justice system ... CSWP requires the offender to work for free for public or non-profit agencies in an area that will benefit the greater community.” The Committee notes that programme data concerning the community corrections programme, for the reporting period FY 2004–05, indicate that 67,076 offenders had been admitted to the CSWP, and that offenders in the programme performed 1,593,736 hours of work with an estimated value of US\$8,660,163. The Committee has recalled that under *Article 1(d) of the Convention*, ratifying States are obliged to abolish all penalties involving any form of compulsory labour that may be imposed as a punishment for having participated in strikes.

4. The Committee is therefore bound to observe that under North Carolina law, a sentence of community punishment that involves an obligation to perform work or services may, as an alternative to incarceration, be imposed on public employees for committing the misdemeanour offence of striking, and that as such the law and policy fall within the definition of compulsory labour under the Convention. The Committee is also compelled once again to point out that, in cases of “active punishment”, the circumstance of a public employee having prior convictions is irrelevant to consideration of a prison sentence, imposed on that person for the crime of participating in a strike, as falling within the scope of the Convention. ***Noting once again that the relevant provisions of North Carolina law do not appear to have been applied in practice to punish participation in strikes by state or local public employees, the Committee trusts that the Government will make every effort in the very near future to take the necessary measures to bring the state’s law into conformity with the Convention.***

5. The Committee notes the further comments by the Government in its report, in response to the Committee’s previous request for further information and explanations regarding relevant state legislation, including legislation in the states of Michigan, Missouri and Nevada. The Committee is raising certain questions in this regard in a request addressed directly to the Government.

Bolivarian Republic of Venezuela

Forced Labour Convention, 1930 (No. 29) (ratification: 1944)

Trafficking in persons

In its previous observations, the Committee noted the comments made by the International Confederation of Free Trade Unions (ICFTU), in which it referred to the “widely reported” trafficking of women and children for prostitution. The Committee noted the Government’s reply, in which it indicated that the ICFTU’s allegations were vague and referred to previous comments made in the context of the Convention. The Committee subsequently noted convergent information from United Nations institutions, namely: the conclusions of the United Nations Committee on Economic, Social and Cultural Rights (document E/C.12/1/Add.56, paragraph 16, of 21 May 2001) in which the latter Committee expressed

serious concern at the spread of child prostitution and the incapacity of the State party to resolve these problems; and the concluding observations of the United Nations Committee on Human Rights (document CCPR/CO/71/VEN, paragraph 16, of 26 April 2001), in which that Committee stated that it was deeply concerned “by the information on trafficking in women to Venezuela, especially from neighbouring countries, and by the lack of information [...] on the extent of the problem and action to combat it”.

Despite the fact that the Government did not provide any information on this subject, the Committee noted the enactment of various provisions under the terms of which the trafficking in persons could be penalized (including the Basic Act on the Protection of Children and Young Persons of 2 October 1998, article 54 of the Constitution of 30 December 1999 and section 174 of the Penal Code of 20 October 2000) and it requested the Government to provide information on the effect given in practice to these provisions, on the number of prosecutions for trafficking and the penalties imposed.

The Committee expressed the hope that the Government would provide fuller information on the trafficking in humans in the Bolivarian Republic of Venezuela and on the measures adopted to prevent and combat it. Furthermore, noting that the Government had not replied to the general observation of 2000, the Committee invited it to provide the information requested therein.

The Committee regrets to note that in its latest report the Government ignores the request for information made by the Committee in its individual observation relating to the Bolivarian Republic of Venezuela and in the general observation addressed to all governments, and that it repeats that the ICFTU’s comments are vague.

Nevertheless, despite the fact that the Government has not considered it necessary to reply to its request for information, the Committee notes the information contained on the web site of the Ministry of Communication and Information of the Government of the Bolivarian Republic of Venezuela concerning the “important steps” that the Government has taken over the past year in its “extensive measures to combat trafficking in humans”, “to protect the victims, convict the traffickers and provide the police forces and public institutions with the tools to address the problem”.

According to the same government source:

- in September 2005, the National Assembly of Venezuela adopted the Basic Act against organized crime as a “legislative measure providing the police forces and government institutions with additional tools to combat the trafficking in humans and to impose longer prison sentences on convicted traffickers”;
- during the first quarter of 2006 a total of 52 victims of trafficking in humans were identified and assisted, constituting an increase of 98 per cent in relation to the same period the previous year;
- in 2005, a total of 21 individuals were convicted for involvement in the trafficking of humans and another three were under trial during the first quarter of 2006; and
- in 2006, the National Plan of Action to Prevent, Suppress, Penalize and Provide Global Assistance to Victims of the Trafficking in Persons was adopted, which calls for the participation of government ministries and bodies, NGOs and international cooperation organizations.

Legislation

The Committee notes section 16 of the Act against organized crime, under the terms of which the trafficking in persons and migrants is considered to be an offence in relation to organized crime. ***The Committee requests the Government to provide information on the provisions applicable to cases in which the trafficking in persons is not committed by organized crime.***

The Committee notes that, according to the information contained on the web site of the Ministry of Communication and Information of the Government of the Bolivarian Republic of Venezuela, the Ministry of the Interior and Justice will submit a Bill on the trafficking in persons. ***The Committee hopes that the Government will provide information on developments relating to the Bill and that it will provide a copy of the Act once it has been adopted.***

Penalties

The Committee recalls that, under the terms of *Article 25 of the Convention*, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying the Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

The Committee hopes that the Government will provide information on current legal proceedings, the provisions of the national legislation under which legal proceedings have been initiated against those responsible and that it will indicate the penalties that are applied.

Other measures: Protection of victims

The Committee notes that one of the objectives of the National Plan of Action is the formulation of a Protocol to protect and assist victims. ***The Committee hopes that the Government will provide a copy of the National Plan of Action and the Protocol.***

The Committee notes the series of measures that have been adopted and hopes that in future the Government will provide information on any other measures adopted or envisaged to combat the trafficking in persons and to ensure compliance with the Convention.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 29** (Albania, Bahamas, Bahrain, Botswana, Bulgaria, Burkina Faso, Cape Verde, Central African Republic, Chad, Djibouti, Dominica, Dominican Republic, Equatorial Guinea, Eritrea, Estonia, France, Islamic Republic of Iran, Japan, Jordan, Mauritania, Mozambique, New Zealand, Nicaragua, Russian Federation, Saint Kitts and Nevis, San Marino, Togo, United Kingdom: Anguilla, United Kingdom: Montserrat, United Kingdom: St. Helena, Uruguay, Uzbekistan); **Convention No. 105** (Albania, Angola, Azerbaijan, Barbados, Bolivia, Botswana, Bulgaria, Burkina Faso, Cambodia, Central African Republic, Chad, Comoros, Congo, Democratic Republic of the Congo, Djibouti, Dominica, Equatorial Guinea, Eritrea, Estonia, France, Gabon, Ghana, India, Jordan, Kazakhstan, Mauritania, Mozambique, Paraguay, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Togo, United States, Uzbekistan).

Elimination of Child Labour and Protection of Children and Young Persons

Albania

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

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

Article 3 of the Convention. The worst forms of child labour. Clause (a). Sale and trafficking of children. The Committee observes the information provided by the Confederation of Trade Unions of Albania that "there are children that fall victims of trafficking, organ transplant, sexual abuses, organized crime and other abuses in the family". While noting the absence of information in the Government's report on this point, the Committee notes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania, carried out under the supervision of ILO-IPEC in 2003 (page 7), since the turn of the century, the reported number of children being trafficked across borders for labour and sexual exploitation has steadily increased in Albania. According to the Government's initial report to the Committee on the Rights of the Child (CRC/C/11/Add.27 of 5 July 2004, paragraphs 269–272), on the basis of the incomplete statistics available with the Equal Opportunity Committee, about 4,000 children have immigrated unaccompanied by their parents (3,000 to Greece and 1,000 to Italy). These children found in other countries, away from the family and its care, are often exposed to numerous risks, including maltreatment, physical and sexual abuse, and involvement in evil forms of work, traffic and other illicit activities. There are cases where children are sold out by their parents, or are exploited by criminal networks for reasons of profit. In the vast majority of cases, the trafficked children live under deplorable conditions. They are appointed to heavy jobs, work long hours and are paid a minimum wage enough to keep them going. The Committee on the Rights of the Child in its concluding observations (CRC/C/15/Add.249 of 28 January 2005, paragraphs 66–67) noted that the departure of children from Albania to neighbouring countries is a significant problem and recommended to the Government to strengthen its efforts in this area.

The Committee observes that Law No. 9188 was adopted on 12 February 2004, which amended the Penal Code by adding provisions concerning the trafficking of persons. The new section 128/b of the Penal Code prohibits the trafficking of minors defined as the "recruitment, transport, transfer, sequestration of minors with the aim of exploitation of prostitution or any other form of sexual exploitation, of forced labour or services, slavery or any other form similar to slavery, of the provision or transplantation of the organs of the body, or any other form of exploitation".

The Committee consequently notes that, although the trafficking of children for labour or sexual exploitation is prohibited by law, it remains an issue of concern in practice. The Committee reminds the Government that, by virtue of *Article 3(a)* of the Convention, the sale and trafficking of children is considered as one of the worst forms of child labour, and that by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee accordingly invites the Government to redouble its efforts to improve the situation and to take, without delay, the necessary measures to eliminate the internal and cross-border trafficking of children under 18 for labour and sexual exploitation. It also asks the Government to take the necessary measures to ensure that persons who traffic in children for labour or sexual exploitation are prosecuted and that sufficiently effective and dissuasive penalties are imposed. The Committee asks the Government to provide information on progress made in this regard.***

Article 5. Monitoring mechanisms. Inter-Ministerial Committee for the Fight against Trafficking in Human Beings and Anti-Trafficking Office. The Committee observes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania (page 17), an inter-Ministerial Committee for the Fight against Trafficking of Human Beings began functioning in January 2002. It also notes that an anti-trafficking office has been established in the Ministry of Public Order including a unit relating to the trafficking of children. ***The Committee requests the Government to provide information on the activities of these bodies aimed at combating the trafficking of children and on the results achieved.***

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. National Strategy for Children (2001–05). The Committee observes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania (page 16), the National Strategy for Children (2001–05) has been approved, which defines the strategic objectives of the government policy and aims at awareness-raising with regard to the phenomenon of trafficking in children. It also provides for setting up municipal and communal structures for the treatment of children at risk, improving legislation concerning children and coordinating actions of central and local governments, international organizations and NGOs for preventing and combating trafficking. The Committee also notes that the Committee on the Rights of the Child in its concluding observations (CRC/C/15/Add.249 of 28 January 2005, paragraph 11) welcomed the approval of the National Strategy for Children for 2001–05. However, it was concerned at the lack of the necessary structures, financial and human resources for its implementation. ***The Committee encourages the Government to redouble its efforts to combat child trafficking. It requests the Government to continue providing information on the concrete measures taken to implement the National Strategy for Children.***

2. National Strategy to Combat Trafficking in Human Beings. The Committee observes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania (page 16), the National Strategy to Combat Trafficking in Human Beings was approved in December 2001 as a medium-term strategy, covering three years, aimed at increasing public awareness and improving the legal framework with regard to preventive measures as well as direct assistance to the victims. This Strategy includes a National Plan of Action listing concrete actions against trafficking and indicating the responsible institutions. ***The Committee requests the Government to provide more detailed information on the achievements and impact of this Strategy and Plan of Action on combating trafficking in children.***

3. Strategy for the Development of Social Services and Strategy for Employment and Vocational Training. The Committee observes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania, the Strategy for the Development of Social Services and the Strategy for Employment and Vocational Training were approved in 2003. These strategies aim at improving the economic and social conditions in Albania and mitigating the major causes of

trafficking: poverty and unemployment. *The Committee requests the Government to provide information on the implementation of these strategies.*

Article 7, paragraph 2. Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. The Committee notes that the Government signed a Memorandum of Understanding with ILO-IPEC in 1999. The activities of ILO-IPEC in Albania involve the issues of prevention of child labour, withdrawal and rehabilitation of those already in intolerable situations. Children's clubs for working children and children at risk have been established in the premises of primary schools in Tirana, Shkodra, Korca Berat and Elbasan. Recreational activities and non-formal education are provided to 650 working children and children at risk. The Committee also notes that, according to the Government's initial report to the Human Rights Committee submitted under Article 40 of the International Covenant on Civil and Political Rights (CCPR/C/ALB/2004/1 of 16 February 2004, paragraph 584), the Ministry of Labour and Social Affairs, in collaboration with International Organization for Migration (IOM) and the Ministry of Public Order, has established a hosting centre in Linza, Tirana intended for the hosting of child victims of trafficking. It further notes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania (page 37), International Social Service (ISS) of Albania in collaboration with ISS Italy has a project supporting unaccompanied minors. ISS has experience treating problems related to abandoned unaccompanied children who are exposed to trafficking; from 1992 to the end of 2002, ISS intervened in 4,457 cases. When possible, they facilitate the return of the child and then take measures toward reintegration. *The Committee asks the Government to continue to provide information on effective and time-bound measures taken to eliminate the trafficking of children for labour and sexual exploitation and the results achieved.*

Article 8. 1. International cooperation. The Committee notes that Albania is a member of Interpol, which helps cooperation between countries in the different regions especially in the fight against trafficking of children. It also notes that Albania ratified in 2002 the United Nations Convention against Transnational Organized Crime as well as its Protocol against human trafficking.

2. Regional cooperation. The Committee notes that ILO-IPEC launched a subregional programme entitled "Prevention and Reintegration Programme to Combat Trafficking of Children for Labour and Sexual Exploitation in the Balkans and Ukraine", focusing on Albania, Romania, Republic of Moldova and Ukraine. *The Committee asks the Government to provide information on the concrete measures taken to implement this programme as well as their impact on combating the cross-border trafficking of children for labour and sexual exploitation.*

Parts IV and V of the report form. The Committee requests the Government to provide a copy of available data on the trafficking of children for labour and sexual exploitation, including for example copies or extracts from official documents including inspection reports, studies and inquiries, and information on the extent and trends of this form of child labour, the number of children covered by the measures giving effect to the Convention, the number and nature of infringements reported, investigations, prosecutions, convictions and penal sanctions applied. To the extent possible, all information provided should be disaggregated by sex.

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

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

Algeria

Minimum Age Convention, 1973 (No. 138) (ratification: 1984)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation, which read as follows:

Article 1 of the Convention. In its previous comments, the Committee noted the Order of 24 July 1999 creating, within the Ministry of National Solidarity and the Family, a committee to follow-up and evaluate the National Plan of Action for the protection and development of children. Section 2 of the Order provides that the committee is responsible for "contributing to defining the elements for the determination of the national policy on childhood". The Committee requested the Government to provide information on the activities of the above committee. The Committee notes that the Government's report does not contain a reply to this comment. *It therefore once again requests the Government to provide information on the work undertaken by the above committee, particularly with regard to the measures adopted or envisaged for the determination of the national policy on childhood, as well as any other information related to the national policy to ensure the effective abolition of child labour.*

Article 2, paragraph 1. Scope of application. In its previous comments, the Committee noted that, under the terms of section 1, Act No. 90-11 of 21 April 1990 respecting working conditions governs individual and collective employment relations between salaried employees and employers. The Committee noted that, under the terms of this provision, Act No. 90-11 does not apply to labour relations which do not derive from a contract, such as work by young persons on their own account. The Committee notes that, in its latest report, the Government once again indicates that the minimum age for recruitment is 16 years in all economic sectors, both private and public. However, in its previous comments, the Committee noted the information provided by the Government that Act No. 90-11 of 21 April 1990 does not apply to persons working on their own account, who are governed by other regulations, which determine the minimum age for admission to non-wage work. The Committee reminds the Government once again that the Convention applies to all sectors of economic activity and that it covers all forms of employment and work, whether or not there is a contractual employment relationship and whether or not the work is remunerated. *The Committee once again requests the Government to provide copies of the texts regulating the minimum age for admission to non-wage work, such as work by young persons on their own account.*

Article 3, paragraph 1. Minimum age for admission to types of hazardous work. In its previous comments, the Committee noted that section 15(3) of Act No. 90-11 of 21 April 1990 provides that minor workers may not be employed in work that is hazardous, unhealthy or harmful to their health or prejudicial to their morals. The Committee noted that the national legislation does not contain a precise definition of the term "minor worker". The Committee requested the Government to indicate the meaning of the expression "minor worker" as contained in section 15(3) of the Act. The Committee notes that the Government's report does not contain any reply on this subject. The Committee reminds the Government that under the terms of *Article 3, paragraph 1*, of the Convention, the minimum age for admission to types of hazardous work, that is any type of employment or

work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years. ***It once again requests the Government to indicate the meaning of the expression "minor worker" as contained in Act No. 90-11 of 21 April 1990.***

Article 3, paragraph 2. Determination of types of hazardous work. In its previous comments, the Committee noted that section 28 of Act No. 90-11 prohibits the employment of workers under 19 years of age in night work. It noted that the national legislation does not appear to determine other activities that are of a hazardous nature. In its report, the Government indicates that Act No. 88-07 respecting occupational health, safety and medicine provides in section 11 that the employer shall ensure that work assigned to women, minor workers and workers with disabilities does not require efforts in excess of their strength. While noting this information, the Committee recalls that ***Article 3, paragraph 2***, of the Convention provides that the types of employment or work which are hazardous shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned. ***The Committee therefore once again requests the Government to indicate whether such a list has been established, after consultation with the organizations of employers and workers, and, if so, to provide a copy.***

Part V of the report form. The Committee notes the information provided by the Government that the courts have not handed down any decisions relating to the implementation of the provisions of the Convention. However, it notes the Government's indication that inspections by labour inspectors have sometimes found the employment of workers under 16 years of age, particularly in commerce and services. ***In this respect, the Committee requests the Government to provide information on the manner in which the Convention is applied in practice, including, for example, statistical data on the employment of children and young persons, extracts from the reports of the inspection services and information on the number and nature of contraventions reported, and on the penalties imposed.***

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

Antigua and Barbuda

Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

The Committee notes the Government's report. ***It requests it to supply further information on the following points.***

Article 2, paragraph 1 of the Convention. Minimum age for admission to employment or work. In its previous comments, the Committee drew the Government's attention to the fact that the provisions of the national legislation respecting the minimum age for admission to employment or work were not in conformity with the age specified by the Government when ratifying the Convention. Indeed, although the Government had specified the minimum age of 16 years when ratifying the Convention, section E3 of the Labour Code provides that no child shall be employed or shall work in a public or private agricultural or industrial undertaking or in any branch thereof, or on any ship, while the term "child", by virtue of section E2 of the Labour Code, means a person under the age of 14 years. The Committee has noted on several occasions that amendments to the Labour Code of 1975 were under examination with a view to bringing the minimum age for admission to employment or work into conformity with the minimum age specified when ratifying the Convention and with the compulsory school leaving age which, under section 43(1) of the Education Act of 1973, is 16 years of age. The Committee notes that in its most recent report, the Government indicates that the Labour Code is presently under review and that the comments of the Committee will be taken into account. ***The Committee therefore once again requests the Government to take the necessary measures to amend section E2 of the Labour Code, so as to define a child as a person under the age of 16 years, which would bring the minimum age for admission to employment or work in the national legislation into conformity with the minimum age specified by the Government when ratifying the Convention. It requests the Government to inform it of progress made in amending the Labour Code.***

Article 3, paragraphs 1 and 2. Minimum age for admission to, and determination of, hazardous work. The Committee reminds the Government that ***Article 3, paragraph 1***, of the Convention provides that the minimum age for admission to any type of employment or work, which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years. It also reminds the Government that, under the terms of ***Article 3, paragraph 2***, of the Convention, the types of hazardous employment or work shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned. The Committee notes the Government's indication that the Labour Code is presently under review and that the comments of the Committee will be taken into account. ***The Committee requests the Government to provide information regarding progress towards the adoption of the amendments to the Labour Code, which would contain a list of activities and occupations to be prohibited to persons below 18 years of age, in accordance with Article 3, paragraphs 1 and 2, of the Convention. It also requests the Government to provide information on the consultations held with organizations of employers and workers concerned on this subject. Finally, the Committee asks the Government to provide a copy of the amendments to the Labour Code once they have been adopted.***

Article 4, paragraph 2. Exclusion of limited categories of employment or work. The Committee had previously noted that section E3 of the Labour Code provides that the prohibition upon the employment or work of children, that is persons under the age of 14 years (section E2), does not apply to any undertaking or ship on which only members of the same family are employed, to members of a recognized youth organization who are engaged collectively in such employment for the purposes of fund-raising for such organization, nor to a child who is working together with adult

members of his or her family on the same work and at the same time and place. *It once again requests the Government to indicate in future reports any changes in law and practice in respect of these categories excluded.*

Argentina

Minimum Age Convention, 1973 (No. 138) (ratification: 1996)

The Committee notes the Government's report and the attached documents. The Committee notes the adoption of Act No. 26061 of 28 September 2005 on the global protection of the rights of girls, boys and young persons and National Decree No. 415/2006, issuing regulations under the Act on the global protection of the rights of girls, boys and young persons.

Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice. With reference to its previous comments, in which it expressed deep concern at the situation of children under 14 years of age who are compelled to work in Argentina through personal necessity, the Committee takes due note of the information provided by the Government in its report in relation to the implementation of national programmes for the prevention and elimination of child labour in rural and urban areas.

The Committee notes the study entitled "Childhood and adolescence: Work and other economic activities", carried out in 2004 by ILO-IPEC, the National Statistics and Census Institute of Argentina and the Ministry of Labour, Employment and Social Security in three provinces in the north-west of the country (Jujuy, Salta and Tucumán), two in the north-east (Formosa and Chaco), the Province of Mendoza and the metropolitan area of Buenos Aires, which was published in 2006. According to this study, with regard to children aged between 5 and 13 years, of a total of 193,095 children engaged in work when the study was undertaken, 116,990 worked for their parents or other family members, 61,074 worked on their own account, 11,694 worked for an employer and 3,337 were engaged in another activity. Children often work long hours and sometimes perform hazardous activities. The study demonstrates that the scope of child labour is greater in rural than in urban areas and that girls, particularly adolescent girls, are engaged in "intense domestic work". The sectors most concerned are commerce, domestic work, agriculture, stock-rearing, housework, hotels, catering, construction and furniture manufacturing.

The Committee notes the information provided by the Government that a new National Plan for the Prevention and Elimination of Child Labour and a National Plan of Action for Boys, Girls and Young Persons have been formulated. It also notes that the Government has recently launched several programmes of action for the prevention and elimination of child labour. These programmes will target children working in public rubbish dumps, the harvesting of fruit and vegetables and who perform various activities in the streets or are engaged in domestic work. The Committee greatly appreciates the efforts made by the Government to combat child labour and strongly encourages it to continue in its efforts to progressively improve the situation. *The Committee requests the Government to continue providing detailed information on the manner in which the Convention is applied in practice, including, for instance, statistical data disaggregated by sex on the nature, extent and trends of work by children and young persons under the minimum age specified by the Government when ratifying the Convention and in hazardous types of activities, and extracts of the reports of the inspection services. It also requests the Government to provide information on the measures adopted in the context of the implementation of the two plans of action referred to above for the elimination of the worst forms of child labour. Furthermore, the Committee requests the Government to provide information on the results achieved through the implementation of the new programmes of action on the prevention and elimination of child labour.*

Article 2, paragraph 1. Scope of application. In its previous comments, the Committee noted that, under the terms of sections 32 and 187 of Act No. 20744 respecting labour contracts, young persons between 14 and 18 years of age may, under certain conditions, be party to a labour contract. It noted that the national legislation governing the admission of children to employment or work does not apply to employment relations which are not a result of a contract, such as work carried out by young persons on their own account. The Government indicated that the labour legislation establishes a minimum age for admission to employment of young persons who perform an activity in the context of a contractual employment relationship, but remains silent with regard to children exercising an economic activity on their own account. It also indicated that the activities undertaken by young persons outside the context of the law are not activities exercised on their own account, but a survival strategy. The Committee requested the Government to provide information on the measures adopted or envisaged to ensure that the protection afforded by the Convention is secured for children exercising an economic activity on their own account.

The Committee notes the information provided by the Government to the effect that, as work by children under the minimum age for admission to employment is prohibited in the country, the national legislation does not contain provisions on work by children for their own account. There is therefore no reason for activities undertaken by children in this context or as survival strategies to be regulated by labour law. The Committee takes due note of the information provided by the Government on the measures adopted in the context of the National Plan for the Prevention and Elimination of Child Labour with a view to adapting and strengthening the inspection services in relation to child labour. In particular, it notes that, in the context of this Plan, it is envisaged to adopt legal provisions extending the intervention of labour inspectors to all economic activities undertaken by children, including those carried out as part of survival strategies. The Committee notes that, according to the study entitled "Childhood and adolescence: Work and other

economic activities”, it is increasingly frequent for children under 14 years of age to be engaged in activities on their own account or for survival and that they may jeopardize the development of the children concerned. In this context, the Committee reminds the Government that the Convention applies to all sectors of economic activity and that it covers all forms of employment and work, whether or not there exists a contractual employment relationship and whether or not the work is paid. It therefore points out that children who carry out an economic activity without a contractual employment relationship, particularly on their own account or as part of a survival strategy, must enjoy the protection afforded by the Convention. ***The Committee would be grateful if the Government would adopt the planned measures as soon as possible to adapt and strengthen the inspection services in relation to child labour. In this respect, it requests the Government to provide information on the measures adopted or envisaged to enable labour inspectors to target children engaged in an economic activity on their own account, thereby securing the protection afforded by the Convention to all children.***

Article 2, paragraph 2. Raising the minimum age for admission to employment or work. The Committee noted previously the information provided by the Government that a meeting between the National Commission for the Elimination of Child Labour (CONAETI), the Coordinating Unit for International Affairs of the Ministry of Labour, Employment and Social Security and the Ministry of Education, Science and Technology had led to the formulation of a new wording of section 189 of Act No. 20744 on labour contracts, which would raise the minimum age for admission to employment or work from 14 to 15 years. It requested the Government to provide information in this respect. The Committee notes the information provided by the Government that, although the national economy has improved over the past three years, social and economic indicators show that progress still needs to be made. It also notes the Government’s indication that the autonomous city of Buenos Aires adopted Act No. 937, establishing the minimum age for admission to employment or work at 15 years. The Committee further notes that, according to the information available to the Office, during the first National Forum on the Prevention and Elimination of Child Labour, held in September 2006, the idea of increasing the minimum age for admission to employment or work was discussed and draft legislation formulated. ***The Committee requests the Government to provide information on the progress of this work and to provide a copy of the Act as soon as it is adopted.***

Article 7. Light work. The Committee noted previously that, under the terms of section 189 of Act No. 20744 on labour contracts, young persons under 14 years of age may work in enterprises in which only members of the same family are engaged, on condition that their activities are not hazardous or harmful. It also noted that, in the agricultural sector, section 107 of Act No. 22248 authorizes young persons under 14 years of age to work in family firms where their work does not prevent their regular attendance at primary education. The Committee considered that neither section 189 of Act No. 20744 on labour contracts, nor section 107 of Act No. 22248 establish an age for admission to employment in light work. In this respect, the Government indicated that the types of work permitted by section 107 of Act No. 22248 may be considered as light work. According to the Government, the exception contained in section 107 is based on a deep-rooted social practice of an atavistic cultural nature in relation to which the National Agrarian Labour Commission is undertaking awareness-raising activities with a view to the elimination of the scourge of child labour. The Committee requested the Government to take the necessary measures to ensure that effect is given to the Convention by providing that employment on light work may only be authorized for persons from 12 to 14 years of age.

In its report, the Government refers to the provisions of the labour legislation relating to hazardous types of work performed by children, working time and night work. While taking due note of this information, the Committee observes once again that neither section 189 of Act No. 20744 on labour contracts, nor section 107 of Act No. 22248 establish an age for admission to light work. In view of the statistics referred to above, the Committee is bound to remind the Government that, under the terms of *Article 7, paragraphs 1 and 4*, of the Convention, national laws or regulations may permit the employment of persons between 12 and 14 years of age on light work or the performance by such persons of light work, provided that such work is: (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received. ***The Committee therefore once again requests the Government to take the necessary measures to ensure that effect is given to the Convention by providing that employment on light work may only be authorized for persons from 12 to 14 years of age in accordance with the conditions prescribed by Article 7, paragraph 1, of the Convention. It also requests the Government to indicate whether the national legislation includes provisions prescribing the number of hours during which and the conditions in which light work may be undertaken, in accordance with Article 7, paragraph 3, of the Convention, and to provide a copy of the respective provisions.***

Azerbaijan

Minimum Age Convention, 1973 (No. 138) (ratification: 1992)

The Committee notes with regret that the Government’s report contains no reply to previous comments. It must therefore repeat its previous observation, which read as follows:

The Committee had recalled that the minimum age of 16 years was specified under Article 2, paragraph 1, of the Convention as regards Azerbaijan. It had noted with regret that the new Labour Code in section 42(3), allows a person who has reached the age of 15 to be part of an employment contract; section 249(1) of the same Code specifies that “persons who are

under the age of 15 shall not be employed under any circumstances". Moreover, the Individual Contracts of Employment Agreement Act, section 12(2), sets the minimum age for concluding an employment contract at 14 years. The Committee once again points out that the Convention allows and encourages the raising of the minimum age but does not permit lowering of the minimum age once specified. **Therefore, the Committee once again asks the Government to indicate the measures taken or envisaged, pursuant to its declaration under Article 2 of the Convention, to ensure that access to employment of children of 14 and 15 years of age may be allowed exceptionally, only for work that meets the criteria set out in Article 7 of the Convention.**

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

Bolivia

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

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

1. The Committee notes with great interest the progress achieved by the Government, i.e. the recent adoption of certain regulations on work by young persons, namely the regulations issued under the Code on Boys, Girls and Young Persons by Supreme Decree No. 27443, of 8 April 2004; Decision No. 001 of 11 May 2004 issued by the Ministries of Labour and of Health and Sports; Joint Ministerial Decision No. 299/04 of 4 June 2004; and Ministerial Decision No. 301/04 of 7 June 2004 approving the report form for compliance with fundamental labour rights. The Committee also notes the Government Plan for the Progressive Elimination of Child Labour 2000–10.

2. *Article 2, paragraph 1, of the Convention. Medical examination for fitness for employment.* The Committee notes Decision No. 001 of 11 May 2004, issued by the Ministers of Labour and of Health and Sports (SEDES), section 1 of which provides that the Ministry of Health and Sports, through its ministries and municipal authorities, shall allocate the necessary and adequate medical personnel so that, in coordination with the Ministry of Labour, free medical examinations are carried out of the fitness for employment of working boys, girls and young persons in the industrial and agricultural sectors and for own account work, in urban and rural areas, in application of section 137(1)(b) of the Code on Boys, Girls and Young Persons of 1999. In this respect, the Committee notes section 137(1)(b) of the Code on Boys, Girls and Young Persons of 1999, under the terms of which young workers shall periodically undergo medical examination. Noting that the medical examinations envisaged under section 1 of Decision No. 001 of 11 May 2004 appear to refer solely to the periodical medical examinations of young persons to be carried out during employment, the Committee reminds the Government that, in accordance with *Article 2, paragraph 1*, of the Convention, no young persons under 18 years of age shall be admitted to employment unless they have been found to be fit for work by a thorough medical examination. Furthermore, the Committee notes the Government's indication that the Ministry of Labour, with the technical assistance of the Bolivian Standardization and Quality Institute (IBNORCA), has formulated regulations under the General Occupational Safety, Health and Welfare Act on work by young persons in industry, commerce, mining and agriculture. These regulations are due to come into force shortly. **The Committee therefore requests the Government to provide information on the progress achieved in this connection and, on the establishment of thorough medical examination before admission to employment.**

3. *Article 2, paragraphs 2 and 3. Medical examination to be carried out by a qualified physician approved by the competent authority and the document certifying fitness for employment.* The Committee notes with satisfaction section 1 of Decision No. 001 of 11 May 2004, issued by the Ministers of Labour and of Health and Sports, and Ministerial Decision No. 301/04 of 7 June 2004, on the report form for compliance with fundamental labour rights, which give effect, respectively, to *Article 2, paragraphs 2 and 3*, of the Convention.

4. *Article 5. Free medical examinations.* The Committee also notes with satisfaction section 1 of Decision No. 001 of 11 May 2004, issued by the Ministers of Labour and of Health and Sports, which provides, inter alia, in accordance with the Convention, that medical examinations for fitness for employment of boys, girls and young workers shall not involve the young persons or their parents in any expense.

5. Finally, with regard to the frequency of the periodical medical examinations (*Article 3, paragraphs 2 and 3*), the medical examinations required until the age of 21 years in occupations which involve high health risks (*Article 4*) and the adoption of appropriate measures for the vocational guidance and physical and vocational rehabilitation of young persons found by medical examination to be unsuited to certain types of work or to have physical handicaps or limitations (*Article 6*), the Committee notes the Government's indication that these subjects have not yet been covered. Nevertheless, the Government indicates that these and other matters envisaged by the Convention will be defined in the regulations on work by young persons issued under the General Occupational Health, Safety and Welfare Act. **The Committee therefore hopes that these regulations will be adopted in the near future to give effect to these provisions of the Convention. It requests the Government to supply a copy of these regulations as soon as adopted.**

6. *Part V of the report form. Application in practice.* The Committee notes that, due to economic constraints, there are certain shortcomings in the application of this Convention, particularly in the capitals of remote departments, such as Cobija and Trinidad, and in rural areas. Nevertheless, the Government is adopting measures, in accordance with the possibilities available to it, so that all young persons who work in the country will progressively be covered by the protection afforded by the Convention. **The Committee notes the Government's statement with interest and requests it to continue providing information on the progress achieved in the application of the Convention in practice in the country. Finally, the Committee requests the Government to provide, if such statistics are available, information concerning the number of children and young persons who are engaged in work and have undergone the periodical medical examinations envisaged in the Convention; extracts from the reports of the inspection services relating to any infringements reported and the penalties imposed; and any other information illustrating the application of the Convention in practice.**

7. *Work by young persons in agriculture.* Even though the Convention does not cover agricultural work, the Committee notes with interest the draft Presidential Decree regulating the exercise of and compliance with rights and obligations arising out of agricultural employment. Section 28(IV) provides that, before being admitted to employment, young persons shall undergo a free medical examination of fitness for work, which shall be repeated periodically. This provision also requires employers to

maintain at the disposal of labour inspectors the corresponding medical certificate of fitness for employment. The Committee considers that this provision reflects the principle set out in *Articles 2, 3 and 7* of the Convention with regard to agricultural work. In this respect, the Committee notes that the draft Presidential Decree is currently in the process of being approved by the Economic Policy Analysis Unit (UDAPE), which is a Government technical body responsible for preparing a preliminary report on the relevance of the approval of any legal provision by the Cabinet of Ministers. ***The Committee asks the Government to include provisions in the above draft relating to the intervals at which medical examinations shall be carried out (Article 3, paragraph 2, of the Convention).***

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

Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1973)

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

Article 7, paragraph 2, of the Convention. With regard to the methods of identification or other methods of supervision to be adopted for ensuring the application of the system of medical examination for fitness for employment to children and young persons engaged either on their own account or on account of their parents in itinerant trading or in any other occupation carried on in the streets, ***the Committee requests the Government to take into consideration, when taking the legislative or regulatory measures on the basis of the analysis of the results obtained from the VALORA Plan, the indications contained in Recommendation No. 79 on the medical examination of young persons, particularly Paragraph 14 on methods of supervision designed to ensure the application of the system of medical examination for fitness for employment to children and young persons engaged in itinerant trading or in any other occupation carried on in the streets or in places to which the public have access.***

Moreover, the Committee invites the Government to refer to its comments under Convention No. 77.

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

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

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

Article 6 of the Convention. Apprenticeship. In its previous comments, the Committee noted that under sections 28 and 58 of the General Labour Act, children under 14 years of age may work as apprentices with or without pay. According to section 28 of the Act, an apprenticeship contract is a contract under which the employer undertakes to ensure that apprentices receive practical instruction in a trade or craft which the employer or some other person dispenses using the work of apprentices, whether or not remunerated, for a fixed period which may not exceed two years. The provision includes apprenticeships in commerce and activities involving the use of engine-driven machinery. Section 58 of the Act prohibits work by children under 14 years of age other than in apprenticeships.

The Committee notes that, according to the Government, apprenticeship is covered by special legislation on work done by girls, boys and adolescents, namely the Children's and Adolescents' Code, 1999. In this regard, the Committee observes that sections 137 and 138 of the 1999 Code deal with apprenticeship. Section 137 provides for an apprenticeship system, and section 138 defines apprenticeship as vocational training provided through an educational process and a specific trade, in accordance with a programme, under the management of an official and carried out in a suitable environment. The Committee observes that sections 137 and 138 on apprenticeship specify no minimum age for admission to apprenticeship. It reminds the Government that *Article 6* of the Convention allows work by persons of at least 14 years of age in undertakings, where such work is part of an apprenticeship course. ***The Committee requests the Government to provide information on the measures taken or envisaged to ensure that no one under the age of 14 years is engaged in an apprenticeship. It again requests the Government to provide information on the practical implementation of apprenticeship programmes.***

The Committee raises other matters in a request addressed directly to the Government.

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

Burkina Faso

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

In reference to its previous comments, the Committee notes with satisfaction that, under section 146 of Act No. 033-2004/AN of 14 September 2004 issuing the Labour Code of Burkina Faso, night work of young persons under 18 years is forbidden, except in cases of force majeure, where this age limit may be lowered to 16 years.

The Committee has raised several other points in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

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

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. In its previous comments, the Committee noted concordant information from various sources that the cases of the trafficking of persons for the exploitation of their labour concern a significant number of children in Burkina

Faso with the objective of utilizing child labour, particularly in agriculture. It noted that, according to the information contained in the ILO's Global Report "Stop forced labour" of 2001 (paragraph 57), children from Burkina Faso are obliged to work in plantations in Côte d'Ivoire and that Burkina Faso is, at the same time, a provider, a receiving country and a transit country. It noted that intermediaries, who operate from Côte d'Ivoire, have children delivered to them by other intermediaries operating in Burkina Faso (summary report of the subregional project of the International Programme on the Elimination of Child Labour (ILO-IPEC, 2001) "Combating child trafficking for labour exploitation in West and Central Africa", page 9).

The Committee notes that Act No. 038-2003/AN, defining and repressing the trafficking of children, was adopted on 27 May 2003. It notes that section 1 of the Act provides that a child is any human being aged under 18 years. Section 3 provides that the trafficking of children shall be deemed to be any act through which a child is procured, transported, removed, lodged or received within or outside the territory of Burkina Faso by one or more traffickers through threats and intimidation, force or other forms of constraint, deception, subterfuge or deceit, abuse of power, or exploitation of the situation of vulnerability of a child or, through offering or receiving of remuneration to obtain the consent of a person exercising control over the child for the purposes of economic or sexual exploitation, unlawful adoption, premature or forced matrimony or any other purpose prejudicial to the health, physical and mental development and well-being of the child. The Committee notes that the same penalties are applicable to any person who, having knowledge of a case of the trafficking of a child or children or having discovered a person under 18 years of age under the above conditions, has not immediately notified the administrative or judiciary authorities or any person capable of preventing it from occurring. **The Committee requests the Government to provide information on the application of the above provisions in practice.**

Article 5. Monitoring mechanisms. The Committee notes the Government's indication that vigilance and supervision committees have been established by the Ministry of Social Action and National Solidarity. It further notes that these committees also include state officials, namely the police, the gendarmerie, customs, social workers, labour inspectors and representatives of civil society. **The Committee requests the Government to provide information on the activities of these vigilance and supervision committees, particularly by providing extracts of reports or documents and indicating the results achieved by these committees in terms of preventing the trafficking of young persons under 18 years of age for economic exploitation.**

Article 6. Programmes of action to eliminate the worst forms of child labour. The Committee notes that Burkina Faso is participating in the ILO-IPEC LUTRENA (Combating the trafficking in children for labour exploitation in West and Central Africa) programme, which covers nine countries: Benin, Burkina Faso, Cameroon, Côte d'Ivoire, Gabon, Ghana, Mali, Nigeria and Togo. It notes, according to the information available, that the Government, with other actors who are essential to combat the trafficking of children, has prepared a draft National Plan of Action against the Trafficking of Children. It appears that this Plan is due to be approved in the coming months. **The Committee requests the Government to provide information on the adoption and implementation of this National Plan of Action.**

The Committee also notes that the ILO-IPEC Red Card Programme for the promotion of information and awareness-raising action at the national level at the various matches of the championship has been introduced in Burkina Faso. The Committee further notes that ILO-IPEC has launched a new initiative based on education and social mobilization, namely "SCREAM (Supporting Children's Rights through Education, the Arts and the Media) Stop Child Labour!" with a view to helping educators worldwide promote understanding and awareness among child labour among young people. This initiative is also intended to raise awareness of school children and strengthen their capacity to educate and inform their peers and families so as to have an impact on their own communities. **The Committee requests the Government to continue providing information on the implementation of these programmes of action.**

Article 7, paragraph 2. Effective and time-bound measures. Clause (b). Removing children from the worst forms of child labour and securing their rehabilitation and social integration. The Committee notes from the information contained in the ILO-IPEC synthesis report of 2000 for the LUTRENA programme against trafficking (page 22), that studies have shown that children from Burkina Faso are transferred to Benin through Togo. The Committee notes that, according to the same report (page 9), the police intercepted five children leaving for Côte d'Ivoire in 1996; the same services discovered eight children from Burkina Faso in Divo in Côte d'Ivoire in 1999, 12 in Germany who were leaving for Italy and two children sent to Ghana. It also notes that 27 abductions of children have been reported, ten of whom were found in Nigeria and 17 in Côte d'Ivoire. It further observes that in March 2000 a convoy was intercepted leaving for Côte d'Ivoire with 22 young persons aged between 14 and 20 years. The Committee notes that, according to the same summary report, 116 children working in the informal economy were interviewed and that they work as itinerant traders, domestic workers and in agriculture and prostitution. Many of them are girls, aged between 12 and 17 years; 45 per cent of these young persons are illiterate, 49 per cent of them had reached the level of primary school and only 6 per cent had entered secondary school. It notes that in July 2004, five children from Burkina Faso, victims of trafficking for economic exploitation in cotton plantations, were repatriated to their families by the vigilance and supervision committee. The Committee notes that 250 children have been withdrawn from trafficking and rehabilitated in Burkina Faso since the beginning of the LUTRENA programme. It further notes that the LUTRENA programme has coordinated the organization of training modules for the security forces (particularly the police) on measures to combat the trafficking of children. **The Committee requests the Government to provide information on the impact of the LUTRENA programme in removing children from trafficking and providing for their rehabilitation and social integration.**

Article 8. Enhanced international cooperation and assistance. 1. International cooperation. The Committee notes that Burkina Faso is a member of Interpol, the organization which assists in cooperation between countries in the various regions, particularly to combat the trafficking of children. It also notes that Burkina Faso ratified the Convention on the Rights of the Child in August 1990 and that it signed the Optional Protocol on the sale of children, child prostitution and child pornography in November 2001. It further notes the Government's indication in the report submitted to the Committee on the Rights of the Child in 2002 (CRC/C/65/Add.18, paragraph 482) that the principle of extraterritoriality is the subject of judicial agreements between Burkina Faso and France, and between Burkina Faso and 11 African countries.

2. Regional cooperation. The Committee notes that a cooperation agreement was signed on 25 June 2004 between the Republic of Mali and Burkina Faso concerning the transboundary trafficking of children. This agreement was made possible through the assistance of the LUTRENA programme, UNICEF and Save the Children Canada. **The Committee requests the Government to provide information on the implementation of this agreement and on the results achieved in relation to the trafficking of children between Burkina Faso and Mali.**

3. Poverty elimination. The Committee notes that a Poverty Reduction Strategy Paper was formulated in June 2000 and that, according to this Paper, Burkina Faso is one of the poorest countries in the world. The plan of action envisaged in the Paper is focussed on three areas: health, education and rural development. **Noting that poverty reduction programmes contribute to breaking the poverty cycle, which is essential for the elimination of the worst forms of child labour, the Committee requests**

the Government to provide information on the impact of this development aid on the elimination of the worst forms of child labour, with particular reference to the trafficking of children.

Part III of the report form. Court decisions. The Committee notes three decisions by the High Court in Fada N’Gourma (Nos. 152, 153 and 165), dated 13 June 2001 and 29 May 2002. It notes that in these cases individuals were intercepted when they were transporting young persons and planned to make them work in their plantation in Benin, without the agreement of their parents. In these three cases, the Committee notes that the Court reclassified the charges to the abduction of minors, which constitutes an offence under section 402 of the Penal Code and is punishable by a sentence of imprisonment of from one to five years and a fine of from 300,000 to 1,500,000 CFA francs. However, the Committee notes that the existence of attenuating circumstances allowed the Court to apply the provisions of section 81(2) of the Penal Code in the three cases in its ruling of June 2001 and only to convict the defendants in one case to one month of imprisonment and the two other defendants to suspended sentences of six months of imprisonment and a fine of 50,000 CFA francs in May 2002. ***The Committee once again requests the Government to indicate the nature of the attenuating circumstances accepted by the Court, to indicate whether these sentences have been served by those who committed the offence and whether court decisions have since been made under the new Act of 27 May 2003 on the trafficking of children. If so, the Committee requests the Government to provide copies of these decisions.***

The Committee is also raising other points in a request addressed directly to the Government.

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

Cameroon

Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1970)

In its previous comments, the Committee noted with regret that, despite repeated promptings from the Committee, the Government had still not taken legislative measures to give effect to the provisions of the Convention, and expressed the firm hope that the Government would take such measures in the near future. ***Noting the Government’s statement that responsibility for legislative measures to give effect to the provisions of the Convention lies with the Ministry of Employment and Vocational Training, the Committee can but reiterate its hope that the Government will take steps at an early date to give effect to the Convention.***

Article 1 of the Convention. Scope of application. In its previous comments, the Committee noted that there were no provisions in the national legislation allowing the Convention to be applied to children and young persons working on their own account, employees or apprentices being covered by the provisions of Order No. 17 of 27 May 1969 and the Labour Code. It also noted that the Government had indicated once again that medical examinations for young persons were to be extended, inter alia, to young persons engaged in own-account activities in the informal economy and that some municipalities had done this for such a group of workers. The Committee likewise took note of observations by the General Union of Cameroon Workers (GUCW) to the effect that, although provision is made for systematic inspection in the formal sector, no measures have been taken for young persons in the informal economy despite efforts under way for young people in the context of combating HIV/AIDS. The Government said in this connection that it is very difficult to get young persons in the informal economy to undergo a medical examination for fitness for employment, as it is difficult to exercise any control over employers in the informal sector. The Committee expressed the hope that the Government would take the necessary steps, with assistance from the ILO, to ensure the application of the Convention.

The Committee notes the information sent by the Government to the effect that some young persons in the informal economy undergo medical examination, such as unregistered street vendors who operate in the sales areas made available by the public services. It also notes that, according to the Government, the Ministry of Employment and Vocational Training will be informed of the comments made on this matter. ***The Committee again notes that the legal provisions on medical examinations for fitness for employment apply only to young persons working in the formal sector, and again reminds the Government that children employed on their own account are automatically covered by the Convention (Article 1, paragraph 1). The Committee accordingly urges the Government to take the necessary steps to ensure that the Convention is applied in both law and practice to all young workers covered by the Convention, including those working in the informal economy. In view of the fact that, according to information available at the Office, a number of children work in the informal economy, some of them on their own account, the Committee again expresses the firm hope that in its next report the Government will give an account of progress made.***

Chile

Night Work of Young Persons (Industry) Convention, 1919 (No. 6) (ratification: 1925)

Article 3, paragraph 1, of the Convention. Period during which it is prohibited to work at night. In the comments that it has been making since 1984, the Committee has noted that section 18 of the Labour Code which prohibits young persons under 18 years of age from performing any night work between 10 p.m. and 7 a.m. in industrial establishments, is not in conformity with *Article 3, paragraph 1*, of the Convention. Section 18 of the Labour Code establishes a period of nine hours during which it is prohibited for any young person under 18 years of age to work at night, whereas the Convention requires a period of 11 consecutive hours, including the interval between 10 p.m. and 5 a.m.

The Committee notes the information provided by the Government that a reform of the Labour Code is currently being undertaken and that the comments made will be taken into consideration. ***The Committee requests the Government to take the necessary measures to ensure that the reform of the Labour Code is completed in the near future and that section 18 is amended so as to give full effect to Article 3, paragraph 1, of the Convention by providing that the period during which a young person under 18 years of age may not work at night consists of at least 11 consecutive hours, including the interval between 10 p.m. and 5 a.m. It requests the Government to provide information on any new development in this respect.***

China

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

The Committee notes the Government's report. It also notes the communication of the International Confederation of Free Trade Unions (ICFTU) dated 31 August 2006. ***It requests the Government to supply further information on the following points.***

Article 2, paragraph 3, of the Convention. 1. *Compulsory schooling.* In its previous comments, the Committee had expressed its concern at the large numbers of children who, in practice, do not attend or who drop out of school before the age of completion of compulsory schooling. It had requested the Government to indicate the measures taken or envisaged to increase school attendance and to reduce school dropout rates, so as to prevent the engagement of children in child labour.

The Committee notes the ICFTU's allegation that educational opportunities for many of China's children remain poor especially in the rural areas and with regard to female students and minorities, and in some cases continue to decline, leading to continued or increased motives for child employment. Statistics from the China Education and Research Network reveal that the number of primary schools has decreased and enrolment of both primary and secondary schools has decreased as well. Most crucially, the law fails to guarantee the funding for compulsory education, thus forcing or allowing many schools, particularly those in the impoverished rural regions, to go on collecting tuition fees or charge various miscellaneous fees to their students in the name of voluntary donations. The ICFTU also indicates that You county, from which many child flower sellers ("flower children") come, was found to have a school dropout rate of 40 per cent among children over ten years old. Increasing school fees were found to be the primary reason for the increase in dropouts and corresponding increase in child workers. Girls, in particular, have high dropout rates.

The Committee notes the Government's information that, in the latter half of 2005, the State Council decided to deepen reforms of the mechanisms for rural compulsory education funds. In particular, from 2006 to 2010 various levels of government will further allocate 218 billion yuan as fiscal funds for compulsory education in rural areas. In addition, there is an ongoing project to construct boarding schools in the rural areas, which will enable the construction of over 7,700 boarding schools in the western regions of China and guarantee access to education for young children living in the mountainous areas, border areas and minority ethnic groups' areas. According to the Government, the State puts in huge amounts of funds, practicing the policy of "two exemptions and one subsidy" (exemption from tuition and miscellaneous fees, exemption from textbook costs, and providing boarding and subsistence subsidy) towards school-age children in the phase of compulsory education whose families are in financial difficulties. This policy effectively guarantees that school-age children receive a nine-year compulsory education. In 2005, all students in the stage of compulsory education from poor families in 592 primary counties chosen for the state project of "poverty-relieving for development" were all given exemption from miscellaneous fees, and 3.95 million students from poor families obtained boarding and subsistence subsidies. In 2006, tuition and miscellaneous fees for those in the stage of compulsory education in the rural areas of the west were all exempted (48.8 million pupils benefited from the exemption). Finally, by 2007, tuition and fees for compulsory education will be waived for all of the 148 million pupils living in the rural areas of China. The Committee notes the Government's information that, as of the end of 2005, the rate of population coverage in areas where the nine-year compulsory education is being universalized has risen from 85 per cent to 95 per cent. The attendance of children of school age in primary schools reached 99.15 per cent; that of junior middle schools exceeded 95 per cent. The dropout rates at primary and junior middle schools were kept below 0.45 per cent and 2.62 per cent respectively.

The Committee is of the view that compulsory education is one of the most effective means of combating child labour and welcomes the important measures that are being taken by the Government to this end. ***The Committee requests the Government to provide information on the impact of the abovementioned measures, in particular the waiver of tuition and miscellaneous fees for children living in the rural areas, on increasing school attendance and reducing school dropout rates for children living in these areas. Moreover, it asks the Government to continue providing statistical information on school attendance and school dropout rates, in particular in rural schools.***

2. *Education for migrant children.* The Committee notes the ICFTU's allegations that, according to the *hukou* system, or household registration, local governments only allocate their resources, such as education, to permanent residents. In other words, migrant workers' children, who travel with their parents to a city where they have no rights to register as permanent residents, even if they were born in that city, are not allowed to schooling provided by the local governments. It is estimated that some 20 million rural children stay in the cities with their parents and 9.3 per cent of these children officially do not go to school at their mandatory schooling age, which means that at least 2 million migrant

children between the ages of 6 to 14 are not receiving education at all. In 1998, the State Education Committee and the Ministry of Public Security addressed the issue by releasing the “Temporary Methods for Migrant Children and Teenagers’ Education”, which allow migrant children to register at local schools by paying temporary enrolment taxes. However, such a method is proving to be unrealistic as most migrant workers are paid at best the minimum wage. This is why, since the mid-1990s, migrants have started to organize and run their own schools. However, there is no guarantee of the quality of teaching in these schools which sometimes are composed of a single class where children from 7 to 14 years of age share the same room and receive the same knowledge. Furthermore, these schools are generally not legitimate educational institutions and cannot issue certificates or send graduates to higher levels of education. The ICFTU points out that only a few cities, like Xiamen, have granted legal status to migrant schools. It also indicates that the report of the United Nations’ Special Rapporteur on the Right to Education condemned China’s record on education, asserting that the central authorities had failed to provide education for children of migrant workers, and complaining of arbitrary school fees that many families cannot afford and a budget which does not provide adequate funding for education. The ICFTU concludes that, as of now, what directly addresses the problem, is a draft amendment of the Compulsory Education Law which is currently being revised by China’s lawmakers. A special provision has been mooted which will add that children of migrant workers are entitled to receive education at the places where their parents and legal guardians work and dwell and requests local governments to ensure that children of migrant workers enjoy equal conditions in obtaining compulsory education.

The Committee notes the Government’s information that it guarantees the right to compulsory education of children of peasant workers and endeavours are being made to support private makeshift schools for children of peasant workers by integrating them into the local educational system and local planning for educational development and including them in the overall school supervision system. It also notes the Government’s statement that it intends to gradually bring these schools into normality rather than simply shut them, leaving the children of peasant workers without schools. ***The Committee expresses its concern at the situation of migrant workers’ children who do not obtain compulsory education and encourages the Government to take all the necessary measures to ensure that migrant workers’ children receive compulsory education, including through the provision of adequate funds for this purpose. It also requests the Government to provide information on any developments with regard to the adoption of the amendment to the Compulsory Education Law providing for equal conditions for migrant workers’ children in obtaining compulsory education.***

Article 3, paragraph 1. Hazardous work. In its previous comments, the Committee had noted the situation of school children performing manual work at schools, including having to produce firecrackers to compensate for the shortage of funds for their schooling. The Committee had expressed its concern at the situation of children engaged in hazardous work in schools. The Committee notes the ICFTU’s allegations that the fireworks industry in China is a long established industry, employing tens of thousands of people, many from the poorest provinces. Production generally takes place in small factories or village-based workshops. Children have long been used in firework production because of their small and nimble fingers and because of the informal setting of production. It is both the nature of the work – explosives used – and the nature of production – unsafe buildings, clusters of workshops and low fire safety measures – that make firework production an extremely dangerous occupation. The ICFTU adds that, in a survey conducted by the State Administration of Quality Supervision, Inspection and Quarantine, inspecting 120 fireworks’ manufacturing workshops in seven provinces, 36.7 per cent were found defective and creating a high risk of premature explosion. The most recent incident involving child labour and firework production took place on 10 July 2006 when an explosion at an illegal fireworks workshop killed seven workers and injured three others, including a 14-year-old girl. Before that, on 19 October 2003, following an explosion in a fireworks factory in Dapingling village in Hunan province, a 14-year-old child worker was killed and 11 other workers, of which nine were under the age of 15, were badly injured. The ICFTU points out that the Government has pledged to phase out the use of these small fireworks workshops, but their use remains much in evidence.

The Committee notes the Government’s statement that, on 30 June 2006, several ministries, including the Ministry of Education, issued the “Regulations on the Management of Safety in Middle Schools, Primary Schools and Kindergartens” (MEO23), effective as of 1 September 2006. Section 33 of the Regulations stipulates that schools are not allowed to organize pupils to take part in: activities such as emergency operations that should be the duty of professionals or adults; hazardous activities such as fabricating fireworks or toxic chemicals; and commercial activities. Section 34 states that schools are not allowed to rent school premises or hire other persons for the fabrication and dealings of inflammable, explosive, toxic, harmful or other hazardous substances. Section 62 states that schools that do not fulfil their duties and do not correct their violation within a time limit, are liable to administrative sanctions. Moreover, those whose acts constitute a crime shall be prosecuted.

While taking note of this information, the Committee expresses its deep concern at the situation of children under 18 years of age who, in practice, continue to be employed in work which exposes them to injuries and sometimes even death. ***The Committee accordingly urges the Government to ensure that the prohibition of hazardous work contained in the recently issued Regulations (MEO23) of 1 September 2006 is strictly enforced in order to protect children under 18 from engaging in hazardous work inside schools. The Committee also requests the Government to provide information***

on the number of contraventions reported by the safety inspections for the violation of the prohibition of hazardous work contained in the Regulations (MEO23) of 1 September 2006, and the application of penalties in practice.

Parts III and V of the report form. Application of the Convention in practice. Following its previous comments, the Committee notes the ICFTU's allegations that the vast majority of Chinese factories and enterprises do not employ children. However, the recent focus on competitive production combined with a poorly regulated labour market and rampant corruption has meant that some employers have sought child labour as the solution to reducing production overheads. The extent of child labour remains difficult to assess, due to a lack of official reporting on cases and the lack of transparency in statistics. In part, this is because most child labour takes place in small private factories which are harder to monitor. In part, however, the lack of reporting is because of a lack of monitoring in general. In fact, the chances of discovery are slim, given the shortage of labour inspectors and the extensive collusion between private business and local officials. The ICFTU indicates that, according to some records, child workers can make up some 20 per cent of the workforce in certain industries. Child labour is found predominantly in local and township level factories, and examples of industries employing children are: the firework industry; brick kilns and glass-making factories; the toy production industry; the textile industry; the construction industry; the footwear industry; the food production industry and light medical work. Children have also been found working in piecework at home and selling flowers in the streets. Geographically, child labour is found in the coastal and richer southern provinces with a higher proportion of private industry and migrants, such as the special export zones. The ICFTU points out that undisclosed information and statistical data on the handling of child labour cases nationwide is considered highly secret, and there is no officially published national data on the extent of child labour and the number of cases prosecuted. The ICFTU also indicates that the fines for child-employing factories remain low in practice. It concludes that statistics concerning child labour should be made available in a transparent manner and be made gender specific in order to be able to effectively address the employment of girls.

The Committee notes the Government's statement that the Labour Security Administrative Departments, at various levels, conducted compliance supervision in accordance with state laws. In 2005, on the basis of an extensive promotion of "Provisions on Labour Security Inspection", various localities strengthened the work of labour security inspection and enforcement in a comprehensive way. Moreover, in the third quarter of the year, efforts were focused on combating the illegal use of child labour and specific examinations on the implementation of the Regulations Banning Child Labour of 2002 were conducted. Severe administrative sanctions were taken against the illegal use of child labour and those suspected of being involved in a crime were transferred to judicial organs for prosecution. According to the Government, these actions basically kept the illegal practices of using child labour within limits and the legal rights and benefits of minors were safeguarded. The Committee notes the commentary of the All-China Federation of Trade Unions contained in the Government's report, according to which in recent years there has been some illegal use of child labour among some non-public enterprises and self-employed entrepreneurs who want to lower costs for profit. Most of the enterprises which illegally use child labour are family workshops, many of which are unregistered enterprises, using their own house or renting a one-household courtyard as a worksite with very poor equipment and living conditions, high work intensity and very long working hours. Most of these enterprises take a "sealed-off" management of the child labourers, who are ordinarily unable to go outside and cannot establish contact with their family members.

While taking note of the Government's information, the Committee expresses its concern at the lack of child labour monitoring and at the low fines imposed on persons who violate the Regulations Banning Child Labour. It also expresses its concern at the lack of accurate statistical data with regard to the extent of child labour. ***The Committee strongly encourages the Government to renew its efforts to improve this situation including by undertaking more numerous and efficient inspections in order to reduce the number of children working. It requests the Government to supply, in its next report, statistical data along with supporting documentation on the employment of children and young persons and extracts from the reports of inspection services. It also asks the Government to provide information on the number and nature of the contraventions reported and penalties imposed.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

The Committee notes the Government's report. It also notes the communication of the International Confederation of Free Trade Unions (ICFTU) dated 31 August 2006. ***It requests the Government to provide information on the following points.***

Article 3. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. 1. Sale and trafficking of children. The Committee had previously noted that section 240 of the Criminal Law of 1997 prohibits the abducting and trafficking of women and children. The Committee notes the ICFTU's allegations that China is a source, transit and destination country for international human trafficking in women and children for sex exploitation and the entertainment industry. The ICFTU points out that allegedly there are an increasing number of young women and girl children trafficked out of China to work as sex workers in Australia, Burma, Canada, Malaysia, Japan, Taiwan, the Philippines, the Middle East, Europe and the United States. The ICFTU also mentions the phenomenon of the trafficking of girls from Tibet, which allegedly involves the Chinese authorities. It is reported that the local Chinese authorities, police, and owners of bars and nightclubs, collude with each other in recruiting these Tibetan sex workers. The ICFTU

stresses that China should take appropriate measures to address the root causes of child trafficking, namely the one child policy and discriminatory attitudes towards girls and women, and should strengthen the existing legislation as well as the enforcement mechanisms.

The Committee notes with interest that the Government has taken a number of measures to combat trafficking. It notes the Government's information that the major activities of cooperation with the ILO include: (i) an in-depth study on trafficking, irregular migration and forced labour in China (November 2004 to March 2005); (ii) a study tour to Japan and Australia on the problem of trafficking (January 2005); (iii) holding in Beijing of a national high-level workshop on trafficking and forced labour (April 2005) and a provincial workshop in the province of Jilin (August 2005); and (iv) field research in the provinces of Yunnan, Hunan and Fujian (June, August 2005). It also notes the Government's information that it has taken measures to increase, on a continued basis, its efforts to combat the crimes of trafficking in women and children. Moreover, in recent years, the local public security organs have put more efforts into carrying out public education campaigns in relation to some typical cases involving trafficking and other infringements against children. The Ministry of Public Security has also taken an active part in the legal and educational campaign on preventing trafficking launched by the General Office of the State Council Commission for Women and Children Affairs, Ministry of Civil Affairs and All-China Women's Federation. The Committee notes the Government's information that the project "Preventing trafficking in girls and young women for labour exploitation within China", jointly carried out between the All-China Women's Federation and the ILO, started on May 2004 and will end in 2008. The Ministry of Public Security took an active part in this project and in the "Mekong Subregional Project to Combat Trafficking in Children and Women". The Committee also notes that a number of action programmes have been launched in various provinces of China in 2005, aimed at preventing trafficking. These programmes especially target children, migrant girls, young women working, and ethnic minority girls.

The Committee takes note of the comprehensive information provided by the Government. It welcomes the measures taken to prevent the trafficking of children, especially girls, for labour and sexual exploitation. However, it notes that, although the national legislation appears to prohibit the sale and trafficking of children under 18 years, the trafficking of children, especially girls, under 18 years for labour and sexual exploitation remains an issue of concern in practice. ***It requests the Government to continue to provide information on the measures taken to prevent and combat the trafficking of children under 18 years for labour and sexual exploitation and the results achieved.***

2. *Forced labour.* The Committee had previously noted that, by virtue of section 11 of the Regulations banning child labour of 2002, forced labour is prohibited. Furthermore, section 96 of the Labour Act of 1994, read together with section 244 of the Criminal Law, provide that employers who are directly responsible for forcing workers to work, by means of violence, intimidation or illegal restriction of personal freedom, commit a criminal offence. It had noted that section 46 of the Criminal Law states that a person who is sentenced to imprisonment, shall carry out the sentence in a prison or in another organ determined to this end. Moreover, anyone with the ability to labour shall take part in labour, receive education and undergo reform. The Committee had observed that, according to the summary records of the public hearings on the social clause, held in the Committee on Foreign Affairs, Security and Defence Policy of the European Parliament of 1997, China's prison system comprises Lagoi camps (reform through labour) and Laojiao (re-education through labour and juvenile criminal camps). The records indicate that all prisoners, including persons under 18, are subject to hard labour.

The Committee notes the ICFTU's allegations that, although Chinese criminal law calls for separate places for minors, in practice, due to limited spaces available, many minors are incarcerated with the adult population. The ICFTU indicates that China has several procedures inside the criminal justice system which deal with minors. Pursuant to these procedures, children may be sent to special "work study" schools, or to labour camp re-education programmes, through "custody and education" schemes.

(i) Forced child labour at "work-study" schools

The ICFTU indicates that the work-study schools are designed to reform children through work and study. The majority of inmates are children who have committed minor public disorders, and the majority of female children are there for sexually related offences. Notwithstanding that the system forms part of the compulsory nine years of education, this model has also become the basis of a form of school-run factories under the programme of "Diligent Work and Economical Study" (*qingong jianxue*) which allows for the exploitation of child labour. In fact, some of these school-run factories have focused more on using labour (for not less than 12 hours a week) than providing education and are de facto detention facilities, as children are not allowed to leave schools, make phone calls or receive visits. The administrative nature of the punishment means that children are detained without due process of law and there appear to be no regulations which guide the exact procedures under which minors are sent to these schools.

(ii) Forced child labour in re-education through labour camps – "custody and education"

The ICFTU points out that children between 13 and 16 years can be sent to custody and re-education programmes by the local public security bureaux with recourse to the criminal justice system. Generally placed in re-education through labour camps, there is little avenue for appeals except to the public security bureau itself. The ICFTU indicates that there is a lack of due process involved in the system of custody and education. The Law on the protection of minors states that it

is not a criminal penalty, but it is included in the Law on prevention of juvenile delinquency and the criminal Law. It is difficult to assess why this system is used and not the criminal juvenile justice system. The ICFTU also states that children working in re-education through labour camps have little safeguards against overwork and poor conditions.

(iii) Forced child labour through school-related or contracted work programmes

The ICFTU refers to the phenomenon of many schools which force children to work in order to make up school budgets. Large numbers of rural schools have contracted out classes of students to work in factories or in the fields. Under the work study programmes, pupils are obliged to work to “learn a skill”, but often they are put to perform regular work in labour intensive unskilled positions for longer periods of time where they do not learn any skill. In other parts of the country, children are found to be working, during school hours, in assembling fireworks, beadwork, or other cottage industry-type production. The ICFTU also refers to reports of school children forced to work harvesting the yearly cotton harvest. It adds that the situation in the Xinjiang Uyghur autonomous region of China (XUAR) is unique. Apart from the lack of training facilities, the picking period of various cotton districts in Xinjiang is concentrated in September and October, thus the work-study programme has to be carried out mainly during this time. The teachers and children have reported that they were pressured to meet daily quotas and face possible fines if they fail to meet them. Moreover, children generally worked from 7 a.m. until dark with half an hour for lunch. Children performing these school programmes are vulnerable to accidents and young girls to sexual assaults.

The Committee notes the Government’s information that, according to section 74 of the Prison Law, criminals under 18 years of age serve their terms at the supervision and education house of juvenile delinquents. However, criminals under the age of 18 whose terms of prison remaining to be served are less than one year can serve their terms at the detention houses according to section 15(2) of the Prison Law. The Committee notes the Government’s information that, as a result of its cooperation with the ILO, an in-depth study on forced labour in China has been carried out (November 2004 to March 2005), as well as various national and provincial workshops. Finally, the Government indicates that, although children are prohibited from carrying out hazardous work, they are allowed to take part in the work-study programmes and public interest activities that are within their capacity and suitable to their own nature.

The Committee notes that, in its concluding observations (E/C.12/1/Add.107, 13 May 2005, paragraphs 23 and 52), the Committee on Economic, Social and Cultural Rights considered that the “Diligent work and economical study” programme constitutes exploitative child labour, in contradiction with the provisions of Convention No. 182. It had encouraged the State party to consider withdrawing the programme of “Diligent work and economical study” (*qingong jianxue*) from its school curriculum. Moreover, it had stated that it was gravely concerned about the use of forced labour as a corrective measure, without charge, trial, or review, under the “Re-education through labour” (*laodong jiaoyang*) programme.

The Committee expresses its concern at the situation of children under 18 years performing forced labour not only in the framework of re-educational and reformative measures, but also in regular work programmes at school. Although the national legislation appears to prohibit the forced labour of children under 18 years, it remains an issue of concern in practice. The Committee reminds the Government that, by virtue of *Article 3(a) of the Convention*, forced labour is considered as one of the worst forms of child labour and that, by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee urges the Government to take measures to ensure that children under 18 years of age are not forced to work whether within the framework of re-educational or reformative measures or at school, or in any other situation, and to provide information on any further measures adopted or envisaged for this purpose.***

Article 5. Monitoring mechanisms. Labour inspectorate. The Committee had previously noted that the labour inspectorate is responsible for monitoring the implementation of the provisions concerning child labour. It notes the ICFTU’s allegations that children are reportedly employed in some hazardous types of work, such as the firework industry, brick kilns and glass-making industries. The ICFTU observes that, given the shortage of labour inspectors, the chances of discovering children illegally working are slim. Therefore, although China does possess national legislation banning child labour and its worst forms, there remains a serious gap between legislation and implementation and monitoring.

The Committee notes the Government’s information that section 10 of the Regulations on labour protection inspection spells out the duties of the labour protection administration in the area of labour inspection and section 11 spells out the specific areas of inspection with regard to the employing entity. It notes that, amongst others, the labour inspectors supervise compliance of regulations prohibiting the use of child labour. Moreover, labour inspection takes the form of routine inspection rounds, examination of the regulatory written material submitted by the employing entities, and receiving complaints or tips on offences. In 2005, the labour protection administrations at various levels carried out 1,185 million unit-times of inspections, including routine inspection rounds and the annual labour protection inspections. The Committee notes the comments made by the All-China Federation of Trade Unions contained in the Government’s report, according to which, in July–August 2006, a special law enforcement inspection on the implementation of the Regulations on the prohibition of the use of child labour was conducted in the whole country. Regarding the results of this

inspection, the present system of laws and regulations on the prohibition of the use of child labour is sound and complete, but the illegal use of child labour still exists. The existence of this phenomenon is mainly due to the following factors: (1) the inadequate power of the labour inspection enforcement; (2) difficulty in obtaining sufficiently convincing evidence; and (3) prevalence of fraudulent affidavits, which makes it difficult to identify child labour.

The Committee encourages the Government to strengthen the role of labour inspection and requests the Government to provide information on its activities, especially regarding the monitoring of hazardous work performed by children under 18 years of age, both in the formal and informal sectors. The Committee also asks the Government to supply, with its next report, extracts of the inspection reports specifying the extent and nature of violations detected involving children and young persons.

Article 7, paragraph 1. Penalties. 1. Trafficking. The Committee had previously noted that the Criminal Law provides for sufficiently effective and dissuasive penalties for the violation of the provisions prohibiting the sale and trafficking of children (section 240). The Committee notes the ICFTU's allegation that, allegedly, despite strong efforts by the Chinese authorities to stem the problem in areas severely affected by trafficking in women and children, grass roots authorities have generally failed to take effective action. The problem is compounded by insufficient punishment for the buyers of trafficked children: under Chinese law the buyers can be sentenced for up to three years' detention if they purchase a trafficking victim, but the vast majority are not prosecuted. Moreover, the Department of Public Security and other agencies are hampered by under-funding and lack of specialist staff, while law enforcement organs must have sufficient resources to combat trafficking. Therefore, for the ICFTU, the problem lies primarily in the implementation of the law and not in the legislation itself.

The Committee notes the Government's information that, in 2005, the public security organs all over the country resolved 1,173 cases involving the trafficking of children, rescuing 1,945 child victims. Moreover, from June 2004 to May 2006, the Office of the Public Prosecutor prosecuted criminal cases and suspects of trafficking in children, purchasing trafficked children and abduction of children: 1,217 cases involved 2,578 persons; 7 cases involved 27 persons and 241 cases involved 346 persons. During the same period, Chinese courts have sentenced 4,938 criminals for the crimes of trafficking in women and children. 3,210 of these have been sentenced to imprisonment or the death penalty, which amounts to 65 per cent. According to the Government, this has sent shock waves through the criminal elements trafficking in women and children and effectively contained the upward trend in such crimes. Moreover, as a result of the participation of leaders in the investigation of major cases and coordinated regional operations, large cases involving the trafficking of women and children have been resolved in some priority areas known for the repeated occurrence of such crimes. ***The Committee welcomes the efforts made by the Government in this domain and requests it to continue to ensure that persons engaged in the trafficking of children for labour or sexual exploitation are prosecuted and that sufficiently effective and dissuasive penalties are imposed. The Committee also asks the Government to continue providing information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied.***

2. Forced labour. The Committee had previously noted that, according to section 244 of the Criminal Law, the persons who are directly responsible for the offence of forced labour shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, *or shall only*, be fined. It had noted that, according to this provision, a person committing the offence of forced labour, may be sentenced to a fine only. The Committee notes the ICFTU's allegation that it is particularly concerned about the lack of implementation of the laws relevant for the elimination of the worst forms of child labour. It also notes the Government's information that the project carried out in cooperation with the ILO – "Forced labour and trafficking. The role of labour institutions in law enforcement and international cooperation" – has included studies, meetings, and investigations aimed at strengthening the law enforcement abilities of the Government officials concerned. It further notes that, according to the Government, from June 2004 to May 2006, the courts in the country sentenced 118 offenders for the crimes of forcing employees to work and engaging child labour for dangerous or heavy work. The Government adds that the quality of the trials in these cases was monitored according to the criminal procedural law. In addition, the relevant Government bodies, the section for minors' protection of the Communist Youth League and the trade unions, all pay great attention to such trials.

The Committee considers that the penalties provided for in section 244 of the Criminal Law for the offence of forced labour are not sufficiently dissuasive to the extent that the penalty applied may merely consist of a fine. It reminds the Government that, by virtue of *Article 7, paragraph 1*, of the Convention, the Government shall take the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of the penal sanction of imprisonment. ***It requests the Government to take the necessary measures to ensure the application of the penalty of imprisonment for an offence as serious as one involving forced labour. The Committee also requests the Government to take the necessary measures to ensure that persons who force children under 18 years of age to work are prosecuted and that effective and dissuasive penalties are applied. It finally requests the Government to continue providing information on any relevant impact of the "Forced labour and trafficking. The role of labour institutions in law enforcement and international cooperation" project on strengthening the law enforcement abilities of the Government officials concerned.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Beggars and homeless children. The Committee notes the ICFTU's allegation that, from August 2003

through the end of June 2004, police picked up 80,000 child beggars nationwide. However, the number of child beggars may be much higher. The village of Gongxiao has had professional beggars for decades, but began to use disabled children as a means of producing a greater return. Locals estimated that 60 per cent of Gongxiao's residents beg with the help of disabled children. Farmers are often tricked into renting their children for 300–500 yuan a month, while a professional beggar's income may be as much as ten times that of a farmer. The Committee notes the Government's information that, in January 2006, the "Opinions on strengthening the work on adolescent vagrants" (MC[2006]11) have been jointly issued by 18 departments, including the Ministry of Civil Affairs, the Steering Unity on the Prevention of Juvenile Delinquency, and the All-China Women's Federation. This document spells out the duties of various departments and organs in combating the phenomenon of child begging and protecting and rehabilitating homeless or begging minors. According to this document, the public security organs should severely attack the criminal acts of organizing, manipulating and inciting minors, especially disabled minors, to commit such unlawful acts as tramping or begging. They should also, when they discover homeless or begging children, rescue them during anti-crime operations, immediately escort such children to centres for homeless minors and help the organs in charge to identify them. The educational administration should be responsible for the education of homeless minors and minors who have been repatriated to their places of origin for resettlement. The department of labour protection should be responsible for vocational training programmes for homeless minors. The judiciary department should emphasize the principles of giving priority to the interest of the minors in dealing with cases involving the rights of homeless minors, while the security organs, the Office of the Public Prosecutor and people's courts should severely pursue and punish those who organize, manipulate and abet the minors, especially disabled minors, to tramp and beg. ***The Committee requests the Government to provide information on any relevant results of the measures applied by the abovementioned organs on protecting child beggars and homeless children from the worst forms of child labour and providing for their rehabilitation and social integration.***

Article 8. International cooperation. Trafficking. The Committee notes with interest the Government's information that it adopted a number of measures aimed at strengthening cooperation with neighbouring countries in order to combat trafficking in women and children. As an example, China–Viet Nam anti-trafficking cooperation has carried out campaigns on the prevention of trans-border trafficking and endeavoured to raise the anti-trafficking consciousness of the law enforcement officers. The following results have been achieved: (a) the setting up of large bulletin boards at the major thoroughfares and entry ports; the distribution of anti-trafficking materials and artefacts; the conduct of a number of campaigns, in order to raise the anti-trafficking awareness of the population of the Sino-Vietnamese border area; (b) the organization of joint training courses in Thailand, Viet Nam and China for law enforcement cooperation against trafficking; (c) the exchange of information on a continued basis between the public security organs of China and Viet Nam; (d) meetings between criminal investigations and public security organs of China and Viet Nam; (e) a two-month long special operation against the trans-border trafficking in women and children organized by the Ministry of Public Security and involving the public security forces of the two border provinces of Guangxi and Yunnan. The Committee notes the Government's information that this operation succeeded in: cracking 38 cases involving the trafficking in Vietnamese women and children or forcing the Vietnamese women to engage in prostitution; rescuing 132 trafficked Vietnamese women and children; capturing 53 suspected criminals (among whom 20 were Vietnamese suspects); crushing 15 criminal gangs; and repatriating 115 Vietnamese women and children. ***The Committee requests the Government to continue providing information on the implementation of anti-trafficking agreements to eliminate the trafficking of children and the results achieved.***

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

Hong Kong Special Administrative Region

Worst Forms of Child Labour Convention, 1999 (No. 182) (notification: 2002)

The Committee notes the Government's report.

Article 3. Worst forms of child labour. Clause (a). Sale and trafficking of children. The Committee had previously noted the ICFTU's indication that the Hong Kong Special Administrative Region (HKSAR) is a transit country for persons trafficked from China to third countries. According to the ICFTU, persons are trafficked to the HKSAR for the purpose of prostitution or forced domestic service. It had also noted the Government's response to the ICFTU's allegations that there is no evidence of children being trafficked for the purpose of forced domestic service in the HKSAR. While acknowledging that the HKSAR is vulnerable to human smuggling activities, the Government had denied that people are trafficked in the HKSAR under coercion and indicated that they come on their own accord because of the comparative economic prosperity of the HKSAR in the region. The Committee had observed that, although the trafficking of children for labour or sexual exploitation is prohibited by law, it remains an issue of concern in practice. It had invited the Government to take, without delay, the necessary measures to eliminate the sale and trafficking of children under 18 years for labour or sexual exploitation.

The Committee notes the Government's statement that the HKSAR is neither a place of origin for exporting illegal immigrants nor a destination for human trafficking. Nonetheless, the Government takes a serious attitude towards the problem of human trafficking. The Committee notes with interest the Government's statement that, under the policy

directive of the Security Bureau, all concerned law enforcement agencies in the HKSAR make concerted and coordinated efforts to combat human trafficking. The measures adopted by the competent authorities include: (a) the identification, by the Immigration Department and the Customs and Excise Department, of suspected vessels used in sea-borne smuggling operations and the interception of vessels believed to be modified for use in transporting illegal immigrants; (b) full vigilance exercised at all immigration control points by the Immigration Department; (c) reinforcement, by the Customs and Excise Department, of the terminal patrol inside the container storage yard and use of sophisticated x-ray methods to examine containers at cargo terminals; (d) intelligence activity by the police force to ensure the integrity of the land border and sea boundary of the HKSAR; (e) establishment of an interdepartmental joint investigation team with members from the Immigration Department, the Customs and Excise Department and the police force; (f) intelligence exchange between law enforcement agencies, local consulates and foreign authorities on activities of forgery syndicates, human trafficking and related illicit activities; (g) organization of overseas conferences on human trafficking; (h) organization, by the law enforcement agencies, of seminars on human smuggling for traders of the sea-freight industry aimed at raising awareness on preventive measures to avoid being exploited by migrant smugglers.

The Committee notes the Government's information that efforts of the law enforcement agencies have contributed to a continual decline in illegal immigration activities in the HKSAR. It notes with interest that, according to the Government, the number of intercepted illegal immigrants under 18 years of age (persons who come on their own accord unlike victims of trafficking) recorded a significant decrease of 79.8 per cent from 798 in 2001 to 161 in 2005. The Committee notes with satisfaction the Government's statement that in the reporting period, the law enforcement agencies did not detect from their investigations any case involving trafficking of children under 18 years of age for labour or sexual exploitation. In the same period, these agencies also did not detect any intelligence on the sale and trafficking of children under 18 years in the HKSAR. With the measures against human trafficking in place, human trafficking in the HKSAR in which the victims are forced into prostitution or other forms of exploitation is rare. Notwithstanding the above, the Government will continue to monitor the situation.

Article 5. Monitoring mechanisms. The Committee had previously noted that the police is responsible for enforcing the provisions of the Crimes Ordinance prohibiting the sale and trafficking of children. Moreover, the social welfare officers are entitled to visit or inspect suspected premises and initiate proceedings to protect children exposed to moral or physical danger. It had noted that, by virtue of section 35(1) of Chapter 213 of the Protection of Children and Juveniles Ordinance, the Director of Social Welfare may issue an order to detain, in protected premises, a person under 18 years, if the Director has reasonable ground to believe that such person under 18 years is about to be taken out or brought into the HKSAR by force, intimidation, threats, false pretences and is likely to be exposed to prostitution or to moral and physical danger. The Committee had asked the Government to provide information on the number of investigations conducted by police officers into suspected cases of child victims of trafficking and the activities of the social welfare officers concerning potential victims of trafficking. The Committee notes the Government's statement that illegal vice activities remain one of the police force's priorities and the police spare no efforts to combat and neutralize these activities. In each police district there is at least one dedicated team to monitor and combat vice activities. Police officers regularly conduct anti-vice operations with a view to eradicating prostitution rings. Moreover, special patrols by both uniformed and plain-clothes officers are made to areas identified as black spots for sex-related crimes. The Committee notes the Government's information that, in the reporting period, there was no case which required social welfare officers to invoke section 35(1) of the Protection of Children and Juveniles Ordinance, which seeks to protect child victims of trafficking.

Article 7, paragraph 1. Penalties. The Committee had previously noted that the Crimes Ordinance and the Offences against the Person Ordinance provide for sufficiently effective and dissuasive penalties of imprisonment for the offences of sale and trafficking for prostitution (sections 129 and 131 of the Crimes Ordinance, and section 42 of the Offences against the Person Ordinance). It had noted that only three cases of trafficking in women for the purpose of prostitution, involving seven women aged 16 and above, were reported in the HKSAR. It had asked the Government to take the necessary measures to ensure that persons who traffic in children are prosecuted and that sufficiently effective and dissuasive penalties are imposed. The Committee notes the Government's information that the police enforces sections 129 and 131 of the Crimes Ordinance, as well as section 42 of the Offences against the Person Ordinance. It notes with satisfaction the Government's information that in the reporting period no offence involving trafficking of children under the above provisions was detected. Notwithstanding the above, the police force and other relevant law enforcement agencies will continue to closely monitor the situation and take the necessary measures for the effective enforcement of the relevant provisions giving effect to the Convention.

Article 7, paragraph 2. Effective and time-bound measures. Clause (b). Providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. The Committee had previously noted that the Social Welfare Department provides assistance to child victims of sexual exploitation. Noting that young women under 18 years are primarily trafficked to the HKSAR for sexual exploitation, the Committee had asked the Government to provide information on the number of former child victims of trafficking who are withdrawn from commercial sexual exploitation and rehabilitated. The Committee notes the Government's information that there was no case of trafficking of children under 18 years in the reporting period and the Social Welfare Department did not receive any request for assistance concerning former child victims of trafficking.

Article 8. Bilateral cooperation. The Committee had previously noted that the Government signed a number of bilateral agreements on surrender of fugitive offenders with other countries. It had noted that these agreements provide for the transfer of offenders to their country of origin with regard to offences such as: unlawful sexual acts on children; dealing and trafficking in slaves or other persons; stealing, abandoning, exposing or unlawfully detaining a child, or other offences involving the exploitation of children. The Committee notes the Government's information that since the Convention came into force in the HKSAR in August 2003 and up to the end of May 2006, the HKSAR Government surrendered one person charged with offences of sodomy and child sexual abuse. In the same period, it did not receive any request for extradition or mutual legal assistance in respect of trafficking of children under the age of 18 years. The Committee notes the Government's statement that it will continue to expand the above network to cooperate with other jurisdictions to combat criminal offences involving the exploitation of children.

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

Congo

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

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

Article 3. Worst forms of child labour. Clause (a). Sale and trafficking of children. In the observations that the Committee has been making for several years under Convention No. 29, it had noted the Government's information mentioning the existence of child trafficking between Benin and the Congo for the purpose of forcing the children to work in Pointe-Noire in trading (fixed and itinerant) and domestic work. According to the Government, the receiving families force the children to work in unimaginable conditions. They have to work all day and are subjected to all kinds of hardships. The Committee notes that section 345 of the Penal Code provides for penalties for individuals found guilty of kidnapping. It notes that section 354 of the Penal Code provides for penalties for those found guilty of having, by means of fraud or violence, kidnapped or ordered the kidnapping of juveniles, or taken, led or moved them from the places where they had been placed by the individuals to whose authority or direction they were subject or had been entrusted. Furthermore, under section 356(1) of the Penal Code, sanctions are to be imposed on anyone who, without fraud or violence, has kidnapped, led away or tried to kidnap or lead away, a juvenile under 18 years of age.

The Committee reminds the Government that under *Article 3(a)* of the Convention, the sale and trafficking of children is considered to be one of the worst forms of child labour. It also draws the Government's attention to the fact that pursuant to *Article 1* of the Convention, each member State which ratifies the Convention must take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour for a person under 18 years of age. ***The Committee requests that the Government indicate the extent to which sections 345, 354 and 356 of the Penal Code have been implemented in practice.***

Article 7, paragraph 1. Penalties. The Committee reminds the Government that under *Article 7, paragraph 1*, of the Convention, it must take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of penal sanctions. ***The Committee therefore requests that the Government adopt sanctions allowing for the prosecution of those involved in the sale or trafficking of children. In this regard, the Committee draws the Government's attention to the fact that sanctions of a sufficiently effective and dissuasive nature must be imposed. The Committee also requests that the Government provide information on the number and nature of reported infringements, the investigations carried out, legal proceedings, convictions and the sentences imposed.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and their rehabilitation and social integration. Sale and trafficking of children. In the observations that the Committee has been making for several years under Convention No. 29, it had noted the information provided by the Government in which it is acknowledged that the trafficking of children between Benin and the Congo for the purpose of forcing the children to work in Pointe-Noire in trading (fixed and itinerant) and domestic work is contrary to human rights. Consequently, the Government has taken certain measures to curb child trafficking, including the repatriation by the Consulate of Benin of children that have either been picked up by the national police or removed from certain families, and the current requirement at borders (airport) for juveniles (children under 18 years of age) to have administrative authorization to leave Beninese territory. ***The Committee requests that the Government provide information on the impact of the measures taken as regards the rehabilitation and social integration of children following their withdrawal from labour.***

The Committee is also raising other points in a request addressed directly to the Government.

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

Côte d'Ivoire

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

The Committee notes the Government's first and second reports. With reference to the comments made under the Forced Labour Convention, 1930 (No. 29), as well as to *Article 3(a)* of Convention No. 182, which provides that the term "the worst forms of child labour" comprises all forms of slavery or practices similar to slavery, such as the sale and trafficking of children for economic exploitation, the Committee considers that this issue may be examined more specifically in the context of Convention No. 182. ***It therefore requests the Government to provide information on the following points.***

Article 3(a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. Informal sector. In its comments under Convention No. 29, the Committee referred to allegations of the trafficking of children for economic exploitation and a widespread practice under which migrant workers, including children, particularly from Mali and Burkina Faso, are forced to work in plantations, particularly cocoa plantations, against their will.

The Committee notes that section 370 of the Penal Code provides that any person who, by means of fraud or violence, abducts minors from where they have been placed by those in authority or under whose direction they have been consigned shall be liable to sanctions. If the abducted minor is under 15 years of age, the maximum penalty is imposed. It also notes that under section 371 of the Penal Code, the abduction or attempted abduction of a young person under 18 years of age is an offence. However, this provision is not applicable in cases where the abducted minor marries the person responsible for the abduction, unless the marriage is annulled. The Committee notes that, in the absence of specific legislation prohibiting the trafficking of children, these two provisions of the Labour Code constitute legal tools to combat the trafficking of children in Côte d'Ivoire. However, it notes that, according to the study carried out by ILO-IPEC/LUTRENA in 2005 on the trafficking of children for their exploitation in work in the informal sector in Abidjan, Côte d'Ivoire, these provisions are ill adapted to combating the trafficking of children for economic exploitation as they only cover cases of the abduction of minors, whereas the internal or transborder trafficking of children in Côte d'Ivoire is based on traditional networks for the placement of children and therefore occurs with the consent of the children's parents or guardians.

The Committee notes that, on 1 September 2000, the Governments of Côte d'Ivoire and Mali signed a bilateral cooperation agreement to combat the transborder trafficking of children. It also notes with interest that the Governments of Benin, Burkina Faso, Côte d'Ivoire, Guinea, Liberia, Mali, Niger, Nigeria and Togo, on 27 July 2005, signed a multilateral cooperation agreement to combat the trafficking of children in West Africa. Furthermore, Côte d'Ivoire is one of the nine West African countries, in addition to Benin, Burkina Faso, Cameroon, Gabon, Ghana, Mali, Nigeria and Togo, which are participating in the Subregional Programme Combating the Trafficking in Children for Labour Exploitation in West and Central Africa (LUTRENA), which commenced in July 2001 with the collaboration of ILO-IPEC. One of the objectives of the LUTRENA programme is to strengthen national legislation to combat the trafficking of children with a view to the effective harmonization of legislation prohibiting trafficking. In this respect, the Committee notes that, according to the information available to the Office, a Bill on the trafficking of children was adopted by the Council of Ministers in 2001, but has still not been put to the vote by the National Assembly.

The Committee notes the efforts that have been made by Côte d'Ivoire for a number of years to combat the trafficking of children, but regrets that the Bill referred to above has not yet been put to the vote by the National Assembly. In practice, this weakness of the legal framework is one of the factors facilitating the economic exploitation of children. The Committee nevertheless notes that the strengthening of the legal framework relating to child labour, and particularly the sale and trafficking of children for economic exploitation, is one of the specific objectives of the National Plan of Action against Child Labour adopted by the Government in 2005. ***The Committee requests the Government to take the necessary measures for the adoption of the Bill on the trafficking of children in the near future.***

Article 3(d) and Article 4, paragraph 1. Hazardous work. Gold mines. The Committee notes that, according to the study carried out by ILO-IPEC/LUTRENA in 2005 on the trafficking of children for exploitation in gold mines in Issia, Côte d'Ivoire, children are the victims of internal and transborder trafficking for economic exploitation in the gold mines of Issia. The Committee notes that child labour in mines is one of the 20 hazardous types of work covered by section 1 of Order No. 2250 of 14 March 2005 and is prohibited for young persons under 18 years of age. The Committee also notes that, when this list of hazardous types of work was defined, the various ministries responsible for agriculture and forestry, mines, trade and services, transport and crafts, and the social partners, were consulted. It also notes that Côte d'Ivoire participates in the internal system for the certification of diamonds established by the Kimberley Process. The Committee reminds the Government that, under the terms of *Article 3(d)* of the Convention, work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children, is considered to be one of the worst forms of child labour and must be prohibited for persons under 18 years of age. Although the legislation is in conformity with the Convention on this point, child labour in mines is a problem in practice. ***The Committee therefore requests the Government to redouble its efforts to secure the effective application of the legislation on the protection of children against hazardous work, and particularly hazardous work in mines.***

Article 5. Monitoring mechanisms. National Steering Committee. The Committee notes that, according to information concerning the IPEC/LUTRENA programme, a National Steering Committee has been established and will monitor activities relating to child labour, and particularly the trafficking of children. ***The Committee requests the Government to provide information on the activities of this new Committee, for example by supplying extracts of reports or documents.***

Article 6. Programmes of action. ILO-IPEC regional programme to combat child labour in cocoa plantations in Western and Central Africa (WACAP). The Committee notes that Côte d'Ivoire is participating in the ILO-IPEC regional programme to combat child labour in cocoa plantations in Western and Central Africa (WACAP), which also includes Cameroon, Ghana, Guinea and Nigeria. In this respect, the Committee notes that, according to information available to the Office, over 5,000 children have been removed from cocoa plantations in Côte d'Ivoire and have benefited from school attendance and training programmes. It also notes that around 1,100 children have been prevented from working in cocoa

plantations. *The Committee requests the Government to continue providing information on the number of children who are, in practice, removed from cocoa plantations, and the measures taken for their rehabilitation and social integration. It also requests the Government to provide information on the number of children who are prevented from being engaged in these plantations.*

Article 7, paragraph 2. Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and assisting in the removal of children from the worst forms of child labour. The Committee notes that, according to information on the IPEC/LUTRENA project available to the Office, nearly 200 child victims of trafficking have been prevented from being the victims of trafficking or removed from this worst form of child labour. *The Committee requests the Government to provide information on the impact of the IPEC/LUTRENA project in Côte d'Ivoire, particularly in terms of the number of children prevented from being the victims of trafficking and the number of child victims removed from this worst form of child labour. It also requests the Government to provide information on the measures taken for the rehabilitation and social integration of these children.*

Clause (c). Ensuring access to free basic education and vocational training for all children removed from the worst forms of child labour. *The Committee requests the Government to provide information on the measures taken in the framework of the ILO-IPEC/LUTRENA project to ensure that child victims of trafficking who have been removed from this worst form of child labour have access to free basic education and vocational training.*

Clause (e). Taking account of the special situation of girls. According to the information available to the Office, the measures taken by the Government to combat child labour and the worst forms of child labour do not properly take into account the special situation of girls. The Committee draws the Government's attention to the fact that over 50 per cent of the children concerned in the LUTRENA project are girls. *It therefore requests the Government to provide information on the measures adopted in practice to take account of the situation of girls in the context of its action to combat the worst forms of child labour.*

Article 8. International cooperation. The Committee notes that Côte d'Ivoire is a member of Interpol, the organization which assists in cooperation between countries in the various regions, particularly to combat the trafficking of children. It also notes that, in the context of the multilateral cooperation agreement to combat the trafficking of children in West Africa of 27 July 2005, the signatory States undertook to adopt measures to prevent the trafficking of children, mobilize the necessary resources to combat this practice, exchange detailed information on the victims and those responsible for violations, bring criminal charges and punish any action to facilitate the trafficking of children, develop specific programmes of action and establish a national monitoring and coordination committee. *The Committee requests the Government to provide information on the measures adopted to give effect to the multilateral agreement signed in 2005, particularly in cases where the exchange of information provides a basis for identifying child trafficking networks and arresting the persons working in such networks. The Committee also requests the Government to indicate whether measures have been taken to identify and intercept child victims of trafficking in border regions and whether transit centres have been established.*

Parts IV and V of the report form. Application of the Convention in practice. The Committee notes the decisions handed down by courts in Côte d'Ivoire sentencing persons charged with the trafficking of children. It also notes that SIMPOC and LUTRENA have conducted a national survey covering, among other subjects, the scope of the worst forms of child labour and the trafficking of children. *The Committee requests the Government to provide information on this survey, including statistics and information on the nature, extent and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention, the number and nature of infringements reported and penal sanctions applied. To the extent possible, all information provided should be disaggregated by sex.*

A request relating to other points is also being addressed directly to the Government.

Czech Republic

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the Government's reports. *It requests the Government to supply further information on the following points.*

Article 3 of the Convention. Clause (a). Sale and trafficking of children. The Committee had previously noted the ICFTU's indication that children are trafficked from Eastern European countries and the former Soviet Union to the Czech Republic for the purposes of prostitution, and Czech children are also trafficked to Western Europe. The Committee had also noted the following sections of the Penal Code which deal with trafficking: section 216a (trade in children); section 216b (definition of child as per section 216 and 216a); and section 246 (trade in women for sexual relations). The Committee had requested the Government to supply a copy of section 246 of the Penal Code as amended by Act No. 134/2002, which extends its application to boys and young men. The Committee notes with satisfaction the Government's information that a new provision under section 232a, which repeals and replaces section 246 of the Penal Code, has been introduced in the Penal Code by Act No. 537/2004. According to this provision, a person who engages, arranges, hires, entraps, transports, hides or detains a person younger than 18 years, by force, threat, violence or otherwise, for the

purposes of sexual exploitation, slavery or serfdom, forced labour or other forms of exploitation shall be punished with imprisonment from two to ten years.

Clause (b). Using, procuring or offering a child for prostitution. The Committee had previously noted the ICFTU's indication that the forced prostitution of children is a serious and increasing problem in the country. Following its previous comments on the matter, the Committee notes the Government's information that a new section 217a was introduced in the Penal Code by Act No. 218/2003. The Committee notes that, according to this section, any person who offers, promises or provides payment or any other benefit for sexual intercourse or self-abuse, denudation or other similar acts to a person younger than 18 years, shall be punished with imprisonment for two years or by a fine.

Article 5. Monitoring mechanisms. The police. Following its previous comments, the Committee notes the Government's information that, within the framework of the National Plan of Action against the Commercial Sexual Exploitation of Children, the Criminality Prevention Department of the Ministry of Interior, in cooperation with the United Kingdom embassy, organized a two-day seminar in March 2005 for specialists from the criminal police and other professionals of the Czech Republic. This seminar focused on the commercial sexual exploitation and abuse of children, the offenders' typology and tactics for questioning them, understanding of the offender's behaviour when travelling abroad for sexual tourism, women as offenders and Internet criminality distributing child pornography. The Committee notes that the seminar continued in 2006 for the same group. The Committee also notes that various training programmes of police secondary schools were used to train policemen with regard to the legislation; the examination of witnesses; the psychology of persons younger than 15 years; and basic professional preparation to get acquainted with crimes related to the sexual abuse of children and youth, etc. ***The Committee requests the Government to continue providing information on the impact of the above measures taken within the framework of the National Plan Against the Commercial Sexual Exploitation of Children on increasing police effectiveness in combating the commercial sexual exploitation of children under 18 years.***

Article 6. Programmes of action to eliminate the worst forms of child labour. National Plan against the Commercial Sexual Exploitation of Children. The Committee had previously noted the Government's indication that a National Plan against the Commercial Sexual Exploitation of Children was adopted in 2000 with a view to eliminating child prostitution and child pornography. Following its previous comments, the Committee notes the Government's information that within the framework of this national plan, the Criminality Prevention Department (CPD) of the Ministry of Interior provided, financially and organizationally, education to Roma social assistants and street workers in topics related to child prostitution. The Committee also notes that the CPD training plan included a two-day educational training by La Strada Organisation, on psychosocial care for threatened children and children exposed to sexual and commercial sexual abuse. The Committee notes the Government's indication that, in 2006, a training for the Roma assistants will be conducted by the Brno organization which has been realizing a pilot project called SASTIPEN-CR-Health and Social Assistants in Excluded Localities. The Committee further notes the Government's indication that a National Strategy to Combat Trafficking in Persons for the period 2005–07 was approved by government resolution No. 957/2005. The Committee also notes that a National Plan to Abolish Commercial Sexual Abuse of Children for the period 2006–08 is currently under preparation. ***The Committee requests the Government to provide information on the impact of these measures on the elimination of the commercial sexual exploitation of children under 18, particularly prostitution. The Committee further requests the Government to supply information on the implementation of the National Strategy to Combat Trafficking in Persons (2005–07) and the National Plan to Abolish the Commercial Sexual Abuse of Children (2006–08) as soon as it has been adopted as well as the results achieved.***

Article 7, paragraph 1. Penalties. The Committee notes that the new section 232a on trafficking in persons introduced in the Penal Code by Act No. 537/2004 and which replaces section 246 (trade in women for sexual relations) of the Penal Code carries penalties of imprisonment from two to ten years. Section 217a of the Penal Code states that any person who offers, promises or provides payment or any other benefit for sexual intercourse or self-abuse, denudation or other similar acts to a person younger than 18 years is liable to imprisonment for two years and a fine. The Committee notes the statistics provided in the Government's report on the crimes committed under sections 246, 232a and 217a of the Penal Code. According to these statistics, under section 246 for the year 2003: five crimes were committed and five people were sentenced; in 2004: 12 crimes committed and 12 people sentenced; in 2005: 20 crimes committed and 20 people sentenced. Under section 232a for the first quarter of 2006: two crimes were committed by two people for which the legal procedure is pending. With regard to section 217a: in 2004, three people were sentenced; in 2005, six people were sentenced; and in the first quarter of 2006, 11 crimes were committed, out of which eight people were sentenced. ***The Committee requests the Government to continue providing information on the application of the above penalties in practice.***

Article 7, paragraph 2. Time-bound measures. Clause (a). Measures taken to prevent the engagement of children in the worst forms of child labour. The Committee notes the Government's information that the problem of the commercial sexual abuse of children is included in the professional training of pedagogical staff, and that the Ministry of Education, Youth and Sports (MEYS) elaborated a strategy for the prevention of sociopathological effects in children and youth within schools, in relation to commercial sexual abuse. The Committee notes that the MEYS in cooperation with the Pedagogic Research Institute initiated two projects: the first was a training programme entitled "Reducing the incidence of child pornography"; and the second one was concerned with the creation of a methodological manual for teachers called

“Sex education – child pornography and its prevention at school”. The Committee also notes the Government’s information that a pilot inquiry called “Prevention of Commercial Sexual Abuse of Children in Educational Institutions for Youth and Child Homes with Schools” conducted by MEYS in 2004 with a sample of pupils of an average age of 16.6 years revealed that most of the children had problems of truancy, including sexual abuse in the family which led them to run away from the family. ***The Committee once again requests the Government to provide information on the impact of the abovementioned measures on preventing the commercial sexual exploitation of children.***

Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. The Committee had previously noted that the programme on the implementation of measures to eliminate the worst forms of child labour of 2003 indicates that the Ministry of Labour and Social affairs and the Ministry of Health shall support long-term therapeutic work with child victims of criminal offences and their families and ensure their protection from further victimization. The Committee notes the Government’s information that institutions, such as centres of educational care, diagnostic institutions, children’s homes with access to schools and educational institutions provide care for victims of the worst forms of child labour, children hailing from problematic families and children having problems with truancy. The Committee notes the Government’s information that within the framework of the National Plan of Action against the Commercial Sexual Exploitation of Children, the Criminality Prevention Department of the Ministry of Interior established interrogation rooms for traumatized victims, especially children, with the aim of preventing secondary victimization of the commercial sexual abuse of such victims. ***The Committee once again requests the Government to provide information on the impact of the abovementioned measures on removing children from commercial sexual exploitation and providing for their rehabilitation and social integration.***

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

Democratic Republic of the Congo

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

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

Article 3 of the Convention. Worst forms of child labour. Clause (a). 1. Sale and trafficking of children for sexual exploitation. With reference to its observations under Convention No. 29, the Committee notes that in its initial report to the Committee on the Rights of the Child in August 2000 (CRC/C/3/Add.57, paragraphs 68, 205 and 206), the Government indicated that phenomena such as the trafficking and sale of children for their sexual and commercial exploitation are increasingly widespread in the Democratic Republic of the Congo. Nevertheless, there is no in-depth study or statistics on the subject. The Government also indicated that the causes are mainly of an economic nature, but also of a social, family, political-legal and cultural nature. The Committee further notes that, in its concluding observations, of July 2001 (CRC/C/15/Add.153, paragraphs 68 and 69), the Committee on the Rights of the Child expressed concern at the information on the trading, trafficking, kidnapping and use for pornography of young girls and boys within the territory of the country, or from the Democratic Republic of the Congo to another country, and that it considered it to be of great concern that domestic legislation does not sufficiently protect children from trafficking. The Committee on the Rights of the Child strongly recommended that the Government take urgent measures to end the sale, trafficking and sexual exploitation of children through, among others, the adoption and implementation of appropriate legislation and the use of the criminal justice process to sanction those persons responsible for such practices.

The Committee notes that the Government ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in November 2001. It also notes that section 67 of the Penal Code prohibits the forceful abduction, restraint or detention of any person. Section 68 prohibits the abduction, restraint or detention of any person for the purpose of sale as slaves or the use of persons placed under their authority for that purpose. As indicated by the Government to the Committee on the Rights of the Child, the provisions of the Penal Code to suppress the sale and trafficking of children for sexual exploitation are not appropriate in view of the extent of the phenomenon. ***The Committee therefore requests the Government to take the necessary measures, as a matter of urgency, to prohibit in national legislation the sale and trafficking of children under 18 years of age for the purposes of sexual exploitation and to adopt appropriate penalties for contraventions of the prohibition.***

2. Forced recruitment of children for use in armed conflict. With reference to its observations under Convention No. 29, the Committee notes that, in her report on the situation of human rights in the Democratic Republic of the Congo in April 2003 (E/CN.4/2003/43, paragraphs 33–36), the United Nations Special Rapporteur indicated that the phenomenon of child soldiers continues to be very disturbing. There is very little demobilization and mass recruitment taking place in the east of the country; according to UNICEF and the NGOs, there are more than 30,000 child soldiers in the Democratic Republic of the Congo. In Uvira, in South Kivu, all the armed groups in the region (RCD/Goma, Mai-Mai, Banyamulenge) continue to recruit children. Children aged under 15 make up a large proportion of the Mai-Mai, the Congolese National Army (ANC) and the Congolese Patriotic Union (UPC). The UPC has on several occasions ordered local communities to “supply children” for the war effort. According to the information transmitted to the Special Rapporteur, many child soldiers are abducted from their families by the various armed groups. They include young girls, who are frequently used as sex slaves for the soldiers. Many of the children are sent to the front.

The Committee also notes that, according to the report of the Secretary-General of the United Nations on children and armed conflict of 9 February 2005 (A/59/695-S/2005/72, paragraphs 15–22), since the establishment of the Transitional Government in the Democratic Republic of the Congo, the *Forces armées congolaises* (FAC, the armed forces of the former Government), the *Mouvement de libération du Congo* (MLC), the *Rassemblement congolais pour la démocratie-Goma* (RCD-Goma), the *Rassemblement congolais pour la démocratie-Kisangani/Mouvement de libération* (RCD-K/ML), the *Rassemblement congolais pour la démocratie-National* (RCD-N) and the main Mai-Mai groups represented at the inter-Congolese dialogue have been integrated into the new national army, the *Forces armées de la République démocratique du Congo* (FARDC). According to

the Secretary-General, while this is a positive step, the various military units have yet to be fully integrated. In many cases, the units are only nominally FARDC, and some of them continue to use children. Since the designation of FARDC regional military commanders in October 2003, some 5,000 children, a small number of them girls, have been released from armed forces and groups. The Secretary-General however indicates that, despite some advances, thousands of children remain in the armed forces and armed groups in the Democratic Republic of the Congo, and recruitment, although not systematic, has continued. Although reiterating its commitment to separate all children from the FARDC, the *état-major* has not yet provided adequate information about the presence of children in its numerous brigades. While some regional and local commanders have released children, no mass release of children has yet taken place.

The Committee notes that the Democratic Republic of the Congo ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in November 2001. It also notes that Article 184 of the Transitional Constitution provides that no one shall be recruited into the armed forces of the Democratic Republic of the Congo nor take part in a war or hostilities unless he has reached the age of 18 years at the time of recruitment. Furthermore, the Committee notes that the Government has adopted Legislative Decree No. 066 of 9 June 2000 to demobilize and reintegrate vulnerable groups present in the fighting forces (Legislative Decree No. 066). Under the terms of section 1 of Legislative Decree No. 066, an order has been issued to demobilize the vulnerable groups in the Congolese armed forces or other armed groups operating in the Democratic Republic of the Congo and to provide for their socio-economic integration and their integration into their families. Under section 2, the term "vulnerable groups" includes child soldiers, girls or boys aged under 18 years, which constitute a specific group requiring urgent humanitarian intervention.

Despite the action taken by the Government in this field, the Committee expresses particular concern at the current situation of children who are still recruited for armed conflict in the Democratic Republic of the Congo. In this respect, the Committee refers to the United Nations Security Council which, in resolution No. 1493, adopted on 28 July 2003, indicates that it "strongly condemns the continued recruitment and use of children in the hostilities in the Democratic Republic of the Congo, especially in North and South Kivu and in Ituri". *With reference to the United Nations Human Rights Commission, which in resolution No. 84, adopted on the 22 April 2004, "urges all the parties ... to put an end to the recruitment and use of child soldiers, contrary to international law ...", the Committee requests the Government to provide information on the measures taken to ensure compliance with the legislation applicable in respect of the forced and compulsory recruitment of children for use in armed conflict. It also requests the Government to redouble its efforts to improve the situation. Furthermore, the Committee requests the Government to take measures as a matter of urgency to ensure that young persons under 18 years of age are not forced to take part in armed conflict either in the national armed forces or in rebel groups, and to provide information on any further measures adopted or envisaged for this purpose. The Committee also requests the Government to provide a copy of Legislative Decree No. 066 of 9 June 2000 on the demobilization and reintegration of vulnerable groups present in the fighting forces.*

Clause (d). Hazardous work. Mines. In its communication, the Confederation of Trade Unions of the Congo indicates that young persons under 18 years of age are engaged in mineral quarries in the provinces of Katanga and East Kasai. In this respect, the Committee notes that, in her report on the situation of human rights in the Democratic Republic of the Congo in April 2003 (E/CN.4/2003/43, paragraph 59), the United Nations Special Rapporteur noted that military units recruit children and force them to work, especially to extract natural resources. She adds that NGOs in South Kivu informed her of children being recruited by armed groups to work in mines. The Committee refers to its observations under Convention No. 29, in which it noted the Concluding Observations of the Committee on the Rights of the Child of July 2001 (CRC/C/15/Add.153, paragraphs 66 and 67), according to which many children are at work in dangerous work environments, particularly in the Kasai mines and at certain locations in Lubumbashi. The Committee on the Rights of the Child recommended that the Government take measures to enforce legal protection in both the formal and informal work sectors, including in mines and other harmful environments.

The Committee notes that section 3(2)(d) of the Labour Code prohibits child labour in its worst forms, and particularly work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, dignity or morals of children. Under the terms of section 1 of Ministerial Order No. 68/13 of 17 May 1968 determining the conditions of work of women and children (Order No. 68/13), it is prohibited for any employer to engage children in work in excess of their strength or exposing them to high occupational risks. The Committee also notes that under section 32 of Order No. 68/13, the extraction of minerals, shale, materials and debris from mines, open cast mines and quarries, as well as earthworks, are prohibited for young persons under 18 years of age. The Committee notes that section 326 of the Labour Code establishes penalties for violations of the provisions of section 3(2)(d) respecting hazardous work. Furthermore, it notes that the Democratic Republic of the Congo participates in the certification scheme for the internal control of diamonds established by the Kimberley Process. The Committee observes that although the legislation is in conformity with the Convention on this point, child labour in mines is a problem in practice. *The Committee requests the Government to provide information in relation to the allegations made by the Confederation of Trade Unions of the Congo. It also requests the Government to redouble its efforts to ensure the effective application of the legislation for the protection of children against hazardous types of work, and particularly hazardous work in mines.*

Article 7, paragraph 1. Penalties. The Committee recalls that, under *Article 7, paragraph 1*, of the Convention, the Government has to take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of penal sanctions. *The Committee therefore requests the Government to indicate the penal provisions relating to: the sale or trafficking of children for sexual exploitation; the forced or compulsory recruitment of children for use in armed conflict; the engagement of children in hazardous work in mines. The Committee also requests the Government to provide information on the number and nature of the infringements reported, the investigations undertaken, legal proceedings initiated, convictions and the penalties applied in practice.*

Article 7, paragraph 2. Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and their rehabilitation and social integration. 1. *Sale and trafficking of children for sexual exploitation.* The Committee notes that, in its concluding observations of July 2001 (CRC/C/15/Add.153, paragraph 69), the Committee on the Rights of the Child recommended to the Government that the police force and border officials should receive special training to help in combating the sale, trafficking and sexual exploitation of children, and that programmes be established to provide assistance, including rehabilitation and social integration, to the child victims of sexual exploitation. *The Committee requests the Government to provide information on the measures adopted to ensure the rehabilitation and social integration of young persons under 18 years of age who are victims of sale and trafficking for sexual exploitation.*

2. *Child soldiers.* The Committee notes that the Government, through the Ministries of Human Rights and Defence, has adopted, in collaboration with the National Demobilization and Reintegration Bureau (BUNADER), a national programme of

disarmament, demobilization and reintegration of ex-combatants (PNDR). It also notes that a National Commission on Disarmament, Demobilization and Reintegration was established in March 2004. Furthermore, the Committee notes that the Government is participating in the ILO-IPEC interregional project on the prevention and reintegration of children involved in armed conflict, which also covers Burundi, Rwanda, Congo, Philippines, Sri Lanka and Colombia. The objectives of the programme are to prevent the recruitment of children in armed conflict, facilitate their removal and ensure their social integration.

The Committee also notes that, in his report of 9 February 2005 on children and armed conflict (A/59/659-S/2005/72, paragraphs 15–22), the Secretary-General of the United Nations indicated that in early 2004 the Transitional Government adopted a national policy and procedural framework for the disarmament, demobilization and reintegration of children in FARDC and all other armed groups. The National Commission on Disarmament, Demobilization and Reintegration has been actively planning the National Programme of Disarmament, Demobilization and Reintegration with the Military Integration Structure (MONUC), the United Nations country team and NGOs. During the reporting period, MONUC, UNICEF and their child protection partners have been collaborating with the National Commission in the ongoing activities to remove children from the armed forces and armed groups. They have also been pursuing dialogue with the military authorities to advocate and plan the separation of children. In order to do so, direct contacts have been made with field commanders, the Ministry of Defence and the FARDC leadership. Since the designation of FARDC regional military commanders in October 2003, some 5,000 children, a small number of them girls, have been released from armed forces and groups. The planning of reintegration projects has also continued. The Secretary-General adds that in Ituri, some progress has been made through dialogue with various armed groups, as well as through collaborative disarmament, demobilization and reintegration planning by the United Nations country team and NGOs. In May 2004, the *Forces armées populaires congolaises* (FAPC), the *Front nationaliste et intégrationniste* (FNI), the *Parti pour l'Unité et la sauvegarde du Congo* (PUSIC), the *Union des patriotes congolais* (UPC-Thomas Lubanga faction) and the UPC-Floribert Kisembo faction formally undertook to participate in the disarmament and community reintegration programme, which first became operational in early September 2004. As of mid-December, almost 700 children had passed through this programme. An unspecified number of children had been released from these groups prior to the launching of the programme.

The Committee encourages the Government to continue collaborating with the various bodies involved in the disarmament and community integration process with a view to removing children from armed forces and groups. It requests the Governments to provide information on the impact of the ILO-IPEC interregional programme on the prevention and reintegration of children involved in armed conflict and the results achieved. The Committee also requests the Government to provide information on the time-bound measures taken to ensure the rehabilitation and social integration of the children who are in practice withdrawn from armed forces and groups.

Paragraph 3. Competent authority responsible for the implementation of the provisions giving effect to the Convention. The Committee notes the Government's indication that the Ministry of Labour and Social Insurance, through the Committee to Combat Child Labour, is responsible for the implementation of the provisions giving effect to the Convention. The Government adds that the Committee to Combat Child Labour will formulate a national strategy, monitor its implementation and evaluate the effect given to the measures recommended. However, the Committee notes that in its communication the Confederation of Trade Unions of the Congo states that, although section 4 of the Labour Code provides for the establishment of a Committee to Combat Child Labour, it has never been created. ***The Committee requests the Government to provide information relating to the allegations of the Confederation of Trade Unions of the Congo. It also requests the Government to provide information on the national strategy formulated by the Committee to Combat Child Labour and to provide a copy when it has been adopted.***

Article 8. Enhanced international cooperation and assistance. The Committee notes that the Democratic Republic of the Congo is a member of Interpol, the organization which assists in cooperation between countries in the various regions, in fields such as combating the trafficking of children. It also notes, according to World Bank information, that the Government has been preparing a Poverty Reduction Strategy Paper (PRSP) since 2002, with the development phase of the strategy due to begin in 2005. ***Recalling that poverty reduction programmes contribute to breaking the vicious circle of poverty, which is essential for the elimination of the worst forms of child labour, the Committee requests the Government to provide information on any significant impact of the PRSP on the elimination of the worst forms of child labour, and particularly on the sale and trafficking of children for sexual exploitation, the forced recruitment of children for use in armed conflict and the performance of hazardous work in mines.***

The Committee is also raising other points in a request addressed directly to the Government.

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

Dominica

Minimum Age Convention, 1973 (No. 138) (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:

Article 2, paragraph 1, of the Convention. Minimum age for admission to employment or work. The Committee recalled that, under section 3 of the Employment of Children Prohibition Ordinance, the minimum age of admission to employment was 12 years and that, under section 4, subsections (1) and (5), of the Employment of Women, Young Persons and Children Ordinance, the minimum age is 14 years. The Government, however, specified a minimum age of 15 years when it ratified the Convention. ***It once again urges the Government to take the necessary measures in order to raise the statutory minimum age to 15 years, in accordance with this provision of the Convention.***

The Committee further noted that the statutory provisions on minimum age applied only to persons employed under an employment relationship or under a contract of employment, whereas the Convention also covered work performed outside any employment relationship, including work performed by young persons on their own account. ***The Committee hopes that the Government will indicate the measures taken or envisaged to give full effect to the Convention on this point.***

Article 3. Hazardous work. The Committee recalled that no higher minimum age had been fixed for work which is likely to jeopardize the health, safety or morals of young people, other than night work. ***It once again urges the Government to take measures so as to set such higher minimum age(s) in accordance with Article 3, paragraph 1, of the Convention, and to***

determine the types of employment or work to which higher minimum age(s) should apply, in accordance with Article 3, paragraph 2, of the Convention.

Article 7. Light work. The Committee noted that the national legislation allowed exceptions to the above minimum ages as regards the employment of children under the age of 12 years in domestic work or agricultural work of a light nature at home by the parents or guardian of such children (section 3 of the Employment of Children Prohibition Ordinance) and the employment of children under the age of 14 years in an undertaking or on a ship where only members of the same family are employed (section 4, subsection 1 and section 5, of the Employment of Women, Young Persons and Children Ordinance). The Committee recalls that under this Article of the Convention, national laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is: (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received. Another condition is that the activities involved and the conditions of work and employment should be determined by the competent authority. ***It hopes that the Government will take measures to restrict, in accordance with this provision, the possibility to employ children below the minimum age specified, and to determine the activities and conditions of their employment or work.***

As regards the Government's reference to the work of family members as the category excluded under Article 4, the Committee points out that the exceptions under this provision must be listed in the first report after ratification, and that the Government declared in its first report, received in February 1988, that no use was made of this provision.

Article 9, paragraph 3. Keeping of registers. The Committee noted that section 8, subsection (1), of the Employment of Women, Young Persons and Children Ordinance provided for the keeping of registers or lists of young persons of less than 16 years of age, whereas the Convention describes the keeping of such registers of persons of less than 18 years of age. It noted the Government's indication that this provision is not applied in practice. The Committee would nevertheless point out that the Government has an obligation to give effect to the provisions of the Convention in law and practice. ***It therefore asks the Government to take necessary measures so that registers or other documents are kept by the employer concerning workers younger than 18 years of age.***

The Committee noted the Government's indication that the provisions of the Convention are upheld by custom and practice. ***Pending the necessary amendments to the legislative provisions as requested above, the Committee once again asks the Government to supply detailed information on how the Convention is applied in practice, as required under Part V of the report form, including, for instance, extracts from official reports, statistics, and information on inspection visits made and contraventions reported.***

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

Dominican Republic

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

Article 2, paragraph 1, and Article 3, paragraph 1, of the Convention. Thorough medical supervision up to the age of 18 years. In its previous comments, the Committee noted that section 248 of Act No. 16-92 of 31 May 1992, approving the Labour Code (hereinafter the Labour Code), provides that any minor under 16 years of age wishing to carry out any kind of work must undergo a thorough medical examination. It also noted that sections 52 and 53 of Regulation No. 258-93 of 12 October 1993 issuing regulations under the Labour Code (hereinafter, Regulation No. 258-93 of 12 October 1993), provide that working minors shall be under medical supervision until they reach the age of 16 years, as envisaged in section 17 of the Labour Code. The Committee requested the Government to provide information on the measures adopted to raise the age set out in the Labour Code and in Regulation No. 258-93 of 12 October 1993 from 16 to 18 years so that the above texts are brought into harmony with the provisions of the Convention.

With regard to the Labour Code, the Committee notes the information provided by the Government according to which a report by a consultant has concluded that the age established by the Labour Code should be raised. With reference to Regulation No. 258-93 of 12 October 1993, it notes the Government's indication that a resolution has already raised the age from 16 to 18 years. The Committee reminds the Government that, under the terms of *Article 2, paragraph 1, and Article 3, paragraph 1, of the Convention*, children and young persons under 18 years of age may not be admitted to employment by an industrial enterprise unless they have been found to be fit for the work on which they are to be employed by a thorough medical examination. ***The Committee once again requests the Government to provide information on the measures adopted or envisaged to bring the Labour Code and Regulation No. 258-93 of 12 October 1993 into conformity with the Convention and to raise from 16 to 18 years the age established for thorough medical supervision. The Committee also requests the Government to provide a copy of the resolution which is reported to have raised the age established for thorough medical supervision from 16 to 18 years.***

Article 4, paragraph 1. Medical examinations and re-examinations for fitness for employment until at least the age of 21 years. The Committee noted previously that, under the terms of section 53 of Regulation No. 258-93 of 12 October 1993, the medical examination only applies to those under 16 years of age and has to be renewed annually or every three months where the work involves high risks for the health of the young person. The Committee recalled that, by virtue of *Article 4, paragraph 1, of the Convention*, in occupations which involve high health risks for children or young persons, the medical examination and re-examination for fitness for employment shall be required until at least the age of 21 years. The Committee notes that the Government has not provided any information on this subject. ***It therefore once again***

requests it to take the necessary measures to amend the legislation so as to provide that, where the work performed by young persons involves high health risks, medical supervision shall be required until at least the age of 21 years.

Article 4, paragraph 2. Specification of the occupations in which a medical examination for fitness for employment shall be required until at least the age of 21 years. The Committee notes that the Government has not provided any information on this point. *It therefore once again requests it to provide information on the measures adopted or envisaged to specify the occupations or categories of occupations in which a medical examination for fitness for employment shall be required until at least the age of 21 years, or to empower an appropriate authority to specify such occupations.*

Article 6, paragraph 2. Determination of the measures for vocational guidance and physical and vocational rehabilitation of children and young persons found to be unsuited to work. Noting the absence of information in the Government's report on this point, the Committee reminds the Government that, under the terms of *Article 6, paragraph 2*, of the Convention, cooperation shall be established between the labour, health, educational and social services concerned, and effective liaison shall be maintained between the services. *It once again requests the Government to provide information on this subject.*

Article 6, paragraph 3. Work permits or medical certificates. The Committee notes the model certificate of fitness for employment for minors provided by the Government. *It requests the Government to indicate whether this model is also used for children and young persons whose fitness for employment is not clearly determined and who have to either: (a) work for a limited period at the expiration of which the young worker will be required to undergo re-examination; or (b) work under special conditions of employment.*

Article 7. Keeping the medical certificate available to labour inspectors. In its previous comments, the Committee reminded the Government that, under the terms of this Article of the Convention, the employer is required to file and keep available to labour inspectors either the medical certificate for fitness for employment or the work permit or workbook. *Noting the absence of information in the Government's report, the Committee once again requests it to indicate the measures taken to give effect to this provision of the Convention.*

Part V of the report form. Application of the Convention in practice. *With reference to its previous comments, the Committee once again requests the Government to provide general information on the manner in which the Convention is applied in practice including, for instance, extracts from the reports of the inspection services and information concerning the number and nature of the infringements reported.*

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 2, paragraphs 1 and 4, of the Convention and Part V of the report form. Minimum age for admission to employment or work and application in practice. In its previous comments, the Committee noted the ICFTU's indications that child labour is a major problem in the Dominican Republic. Owing to high unemployment and poverty, particularly among the Haitian community, children enter the labour market at a young age and work in the informal economy or in agriculture. Moreover, the number of Haitian children working on sugar plantations alongside their parents is increasing.

In reply to the ICFTU's observations, the Government indicated that the Dominican Republic is a very poor country and that it could not deny that children enter the labour market at a very young age. However, with the technical assistance of ILO-IPEC, it was continuing to take measures to eliminate child labour. For example, children working in the agricultural sector had been removed from their work and awareness-raising campaigns for the population concerning the problem of child labour had been organized. The Committee noted that, according to the statistics contained in the "Report on the results of the national study on child labour in the Dominican Republic", published in 2004 by ILO-IPEC, SIMPOC and the Secretariat of State for Labour, around 436,000 children aged between 5 and 17 years were working in the Dominican Republic in 2000. Of these, 21 per cent were aged between 5 and 9 years and 44 per cent were between the ages of 10 and 14. The sectors of economic activity most affected by child labour were services in urban areas and agriculture in rural areas. Furthermore, there were also many children working in the commercial and industrial sectors. The Committee noted that, according to the above statistics, the legislation on child labour appeared difficult to apply and child labour constitutes a problem in practice in the Dominican Republic. It expressed its deep concern at the situation of children under the age of 14 years who are compelled to work in the Dominican Republic, and strongly encouraged the Government to step up its efforts to gradually improve the situation.

In its report, the Government indicates that all children, irrespective of their nationality and including children of Haitian nationality, have to attend school. It adds that the Secretariat of State for Labour, in collaboration with the Secretariat of State for Education (SEE), has formulated a plan of action under which labour inspectors who identify children not attending school have to inform the SEE, irrespective of their nationality. Furthermore, according to the Government, inspections carried out by the General Directorate of Labour and the National Labour Inspection Department have not revealed the presence of Haitian children or children under 14 years of age who work.

The Committee notes the information provided by the Government in its report under Convention No. 182. It notes the adoption of the National Strategic Plan for the Elimination of the Worst Forms of Child Labour (2005–15), which is the country's response to resolving the problem of child labour and its worst forms. The Committee notes with interest that the Government, in the context of the ILO-IPEC *Time-bound Programme (TBP)* on the worst forms of child labour, is carrying out several programmes of action, particularly in the agricultural sector regions of Constanza (vegetables), San

José de Ocoa (coffee), Azua (tomatoes) and the Provinces of Duarte and Maria Trinidad Sánchez (rice); domestic work by children in Santiago and urban child labour in San Domingo. According to the information available to the Office, these programmes will benefit, directly or indirectly, around 25,200 boys and girls under 18 years of age who are engaged in work or at risk of exploitation, and over 2,850 families. ***The Committee takes due note of the Government's efforts to eliminate child labour and its worst forms, and requests it to provide information on the implementation of these projects and on the results achieved in terms of the progressive abolition of child labour.***

The Committee is also raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes the Government's report.

Article 3 of the Convention. Worst forms of child labour. Clause (a). Slavery and similar practices. Sale and trafficking of children for commercial sexual exploitation. In its previous comments, the Committee noted the observations made by the ICFTU to the effect that the trafficking of human beings, including children, for commercial sexual exploitation is a serious problem in the Dominican Republic, particularly in the tourist industry. The ICFTU added that, despite the severe penalties set out in the national legislation for the trafficking of persons and the efforts made by the Government to eliminate this practice, the problem remains very widespread. In this respect, the Government recognized the existence in the country of cases in which children are offered for prostitution and indicated that the national legislation, namely the Code for the Protection of the Rights of Boys, Girls and Young Persons of 2003, and Act No. 137-03 of 7 August 2003 respecting the smuggling of migrants and the trafficking of persons [hereinafter, Act No. 137-03 of 7 August 2003], prohibits the sale and trafficking of children for prostitution. The Committee also noted that, according to the study entitled "Commercial sexual exploitation of young persons in the Dominican Republic", published in 2002 by ILO-IPEC, the children involved in the commercial sexual exploitation sector are aged between 10 and 17 years. It requested the Government to step up its efforts to secure the effective enforcement of the legislation protecting children against sale and trafficking for sexual exploitation, and particularly prostitution, and requested it to provide information on the application of penalties in practice.

The Committee notes the information provided by the Government in its report. It also notes that, according to the information available to the Office, in the context of the ILO-IPEC regional project entitled "Participation in preventing and eliminating the commercial sexual exploitation of children in Central America, Panama and the Dominican Republic", legislative measures will be adopted to amend Act No. 137-03 of 7 August 2003 and the Penal Code with a view to reflecting accurately the content of international instruments on the trafficking of persons, including trafficking for commercial sexual exploitation. The Committee considers that the adoption of new legislation is bound to improve the protection in relation to the trafficking of children, particularly for commercial sexual exploitation, already established by the legal provisions currently in force in the Dominican Republic. ***It hopes that the reforms will be adopted in the near future and requests the Government to provide information on any progress achieved in this respect. The Committee once again encourages the Government to step up its efforts to secure in practice the protection of young persons under 18 years of age against sale and trafficking for commercial sexual exploitation and requests it to continue providing information on the imposition of penalties in practice including, for example, reports on the number of convictions.***

Article 6. Programmes of action. National Plan for the Elimination of the Abuse and Commercial Sexual Exploitation of Boys, Girls and Young Persons. With reference to its previous comments, the Committee notes with interest the National Plan for the Elimination of the Abuse and Commercial Sexual Exploitation of Boys, Girls and Young Persons. It notes the activities envisaged by the Plan to combat commercial sexual exploitation in the country. ***The Committee requests the Government to provide information on the programmes of action established in the context of the National Plan referred to above and the results achieved.***

Article 7, paragraph 2. Effective and time-bound measures. In its previous comments, the Committee noted that the commercial sexual exploitation of children was one of the worst forms of child labour in respect of which the Government had undertaken to adopt measures as a priority in the context of the ILO-IPEC ***Time-bound Programme (TBP)*** on the worst forms of child labour. The Committee notes with interest that, in the context of the ILO-IPEC regional project entitled "Participation in preventing and eliminating the commercial sexual exploitation of children in Central America, Panama and the Dominican Republic", over 870 children will be removed from commercial sexual exploitation or trafficking and around 850 children at special risk of this worst form of child labour will be prevented from being engaged therein. Furthermore, over 1,000 children will benefit directly from this project.

Clause (a). Preventing the engagement of children in the worst forms of child labour. 1. TBP and ILO-IPEC regional project. ***Taking into account the information referred to above concerning the number of children who will be prevented from being engaged in commercial sexual exploitation or in trafficking for this purpose, the Committee once again requests the Government to provide information on the measures taken in the context of the TBP and the ILO-IPEC regional project to protect these children. It also once again requests the Government to provide statistical data on the number of children who will in practice be prevented from being engaged in this worst form of child labour as a result of the implementation of the TBP and the ILO-IPEC regional project in the Dominican Republic.***

2. *Other measures.* The Committee notes that the ILO-IPEC regional project provides for the strengthening of national institutional capacities. The Committee considers that collaboration and the exchange of information between the various actors at the national and local levels concerned with the commercial sexual exploitation of children, such as government agencies, employers' and workers' organizations, non-governmental organizations and other civil society organizations, constitute indispensable measures to prevent and eliminate commercial sexual exploitation. ***It requests the Government to provide information on the measures adopted for this purpose. As the country benefits from widespread tourist activity, the Committee also requests the Government to indicate whether measures have been taken to raise awareness among actors directly related to the tourist industry, such as associations of hotel owners, tourist operators, unions of taxi drivers and owners of bars, restaurants and their employees.***

Clause (b). Assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. In its previous comments, the Committee requested the Government to provide information on the measures adopted to ensure the rehabilitation and social integration of children and the results achieved in removing children from commercial sexual exploitation or trafficking for this purpose as a result of the implementation of the *TBP*. It notes that the Government's report does not contain any information on this subject. ***As the ILO-IPEC regional project envisages removing a greater number of children from this worst form of child labour, the Committee once again requests the Government to provide statistical data on the number of children who will in practice be removed from commercial sexual exploitation and trafficking for this purpose as a result of the implementation of the TBP and the ILO-IPEC regional project in the Dominican Republic. It also once again requests the Government to provide information on the economic alternatives envisaged and on the measures adopted to ensure the rehabilitation and social integration of children removed from the worst forms of child labour.***

Article 8. International cooperation. 1. *Commercial sexual exploitation.* The Committee notes that the ILO-IPEC regional project on the prevention and elimination of the commercial sexual exploitation of children envisages the strengthening of horizontal collaboration between countries participating in the project. The Committee considers that international cooperation between law enforcement agencies, particularly the judicial authorities and police forces, is indispensable to prevent and eliminate commercial sexual exploitation, and particularly the sale and trafficking of children for that purpose, through the compilation and exchange of information and through assistance to identify and prosecute the individuals involved and repatriate the victims. ***The Committee therefore hopes that, in the context of the implementation of the ILO-IPEC regional project on the prevention and elimination of the commercial sexual exploitation of children, the Government will take measures to cooperate with participating countries, thereby reinforcing security measures as a means of bringing an end to this worst form of child labour. It requests the Government to provide information on this subject.***

2. *Poverty reduction.* With reference to its previous comments, the Committee notes that both the Strategic National Plan for the Elimination of the Worst Forms of Child Labour (2005–15) and the National Plan to Eliminate the Abuse and Commercial Sexual Exploitation of Boys, Girls and Young Persons envisage strategic measures for the reduction of poverty in the country. The Committee also notes that, according to the statistical data provided by the Government, around 60 per cent of minors under 14 years of age lived in poverty in 2001. ***The Committee requests the Government to provide information on the results achieved as a result of the implementation of the two Plans referred to above, particularly in terms of the effective reduction of poverty among children removed from commercial sexual exploitation and from sale and trafficking for this purpose.***

The Committee is also raising other matters in a request addressed directly to the Government.

Ecuador

Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) (ratification: 1975)

In its previous comments, the Committee took note of a Bill reforming the Labour Code which was being examined by the National Congress. The Committee noted that the Bill took into account most of the points it raised earlier and gave effect to the provisions of *Articles 1, 2, 4, 5, 6 and 7 of the Convention*. The Committee emphasized, however, that the Bill contained no provision concerning an annual medical examination during employment until the age of 18 (*Article 3*) and hoped that the Government would take the necessary measures to include this matter in the legislative reform. The Committee notes with satisfaction that Act No. 2006-40 reforming the Labour Code, published in *Official Register* No. 259 of 27 April 2006, which entered into force on that date, provides that a medical examination shall be carried out at least once a year until the age of 18 years, in accordance with *Article 3* of the Convention.

Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1975)

In its previous comments, the Committee referred to the comments made under Convention No. 77 and stated that the Bill to amend the Labour Code gave effect to *Articles 2, 4, 5, 6 and 7(2) of the Convention*. It emphasized, nevertheless, that this Bill does not give full effect to application of the Convention. On this matter, the Committee stressed that the Bill contained no provisions relating to annual medical supervision during employment up until the age of

18 years (*Article 3*). It also underscored that, by virtue of this Bill, labour inspectors only had to carry out verification checks on the existence of medical certificates in industrial enterprises, whereas Convention No. 78 covers non-industrial enterprises (*Article 7(1)*). The Committee therefore expressed the hope that the Government would take the necessary measures to include this matter during legislative reforms. The Committee notes with satisfaction that Act No. 2006-40 to reform the Labour Code, published in the *Official Register* No. 259 of 27 April 2006, which entered into force on that date, provides that the medical examination shall be carried out at least once a year until the workers attain 21 years of age, in compliance with *Article 3* of the Convention. The Committee also notes with satisfaction that Act No. 2006-40 provides that labour inspectors shall carry out the necessary checks to verify the existence of medical certificates of fitness for employment in both industrial and non-industrial enterprises.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes the information provided by the Government in its report in response to the general observation that it made in 2004 on the trafficking of children for economic and sexual exploitation. More particularly, it notes with interest that the Government has adopted a number of measures to combat this worst form of child labour, including:

- (1) the adoption of Act No. 25-447 of 23 June 2005, reforming the Penal Code, which categorizes crimes involving the sexual exploitation of young persons under 18 years of age and establishes heavy penalties for persons found guilty of having committed a crime established by the Act. Accordingly, crimes involving the sale and trafficking of children for economic and sexual exploitation, the use of children for the production of pornography or for pornographic performances, the offering or organization of tourist activities involving services of a sexual nature with children and the trafficking of body parts shall be punished by a sentence of imprisonment of between six and 18 years, and these penalties may be accompanied by fines;
- (2) the extension of the ***Time-bound Programme (TBP)*** for the elimination of the worst forms of child labour up to 2008 and the implementation of programmes of action to combat the trafficking of children and prevent them from being engaged in this worst form of child labour;
- (3) training, collaboration and awareness-raising of officials (labour inspection, police forces, immigration services) in relation to combating the trafficking of children;
- (4) the inspection of various bars, brothels and night clubs by the National Police Unit for Children (DINAPEN), leading to the arrest and conviction of persons involved in the crime of sexual exploitation.

Article 7, paragraph 2, of the Convention. Effective and time-bound measures. The Committee takes due note of the fact that, in the context of the ***TBP***, programmes of action will be implemented to combat the commercial sexual exploitation of children and the trafficking of children for this purpose. It also takes due note of the fact that over 1,500 children will benefit from the extension of the ***TBP***, of whom 620 will be removed from the worst forms of child labour and 880 will be prevented from becoming engaged therein.

Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from these forms of child labour and providing for their rehabilitation and social integration. Trafficking of children for commercial sexual exploitation. The Committee notes that, according to ILO-IPEC statistics, over 5,200 children are reported to be victims of commercial sexual exploitation in Ecuador, of whom a certain number have been victims of trafficking. It also notes the information provided by the Government that children are reportedly victims of trafficking in the indigenous community of Chimborazo. ***The Committee requests the Government to provide information on the implementation of the TBP and the results achieved in: (a) preventing children from being victims of sexual exploitation or trafficking for this purpose; and (b) providing the necessary and appropriate direct assistance to remove child victims from these worst forms of child labour and provide for their rehabilitation and social integration.***

Article 8. International cooperation and assistance. Trafficking of children. In its previous comments, the Committee requested the Government to provide information on the measures taken or envisaged for cooperation with neighbouring countries and the prevention of the sale and trafficking of children for the purpose of economic and sexual exploitation. The Committee takes due note of the information provided by the Government that the immigration police have been reinforced to combat illegal movements. The Committee is of the view that international cooperation between law enforcement agencies, particularly the judicial authorities and police forces, is indispensable to prevent and combat the trafficking of children, through the collection and exchange of information, and through assistance to detect and prosecute the individuals involved and repatriate victims. ***It therefore hopes that, in the context of the programmes of action on commercial sexual exploitation implemented by the TBP, the Government will take measures to cooperate with neighbouring countries, particularly through the reinforcement of security measures on common borders. The Committee requests the Government to provide information on this subject.***

The Committee is also raising other points in a request addressed directly to the Government.

El Salvador

Minimum Age Convention, 1973 (No. 138) (ratification: 1996)

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

Article 1 of the Convention. National policy. In its previous comments, the Committee noted the indication by the Inter-Union Commission of El Salvador (CATS–CTD–CGT–CTS–CSTS–CUTS) that the Government had not implemented a plan of action for the elimination of child labour and that the situation in El Salvador showed that, in practice girls and boys are on the labour market at ever younger ages. In this respect, the Government indicated that several measures had been taken, including the implementation, with the technical assistance of ILO-IPEC, of several activities intended to prohibit and regulate child labour in several sectors, including the harvesting of shellfish and coffee beans, and work in public markets. The Committee requested the Government to provide information on the implementation of these projects intended to ensure the effective abolition of child labour.

The Committee notes with interest the information provided by the Government to the effect that over 41,650 children who worked in the sugar cane, coffee and firework sectors, in public rubbish dumps and public markets, have benefited from numerous projects implemented in the context of the *Time-bound Programme (TBP)* on the worst forms of child labour. Over 12,040 children have been removed from work and more than 29,600 children have been prevented from working. Moreover, over 78,790 children have had access to various forms of assistance, such as vocational training, psychological guidance, health and nutrition services and school equipment. Around 5,130 parents have also benefited indirectly from these projects. ***The Committee takes due note of the efforts made by the Government with a view to eliminating child labour and requests it to continue providing information on the implementation of these projects and the results achieved.***

Article 2, paragraph 1. Minimum age for admission to employment or work. The Committee previously noted the indication by the CATS–CTD–CGT–CTS–CSTS–CUTS that children between the ages of 12 and 14 years are engaged in work in El Salvador. It also noted the observation by the ICFTU that child labour is very widespread in unregulated rural and urban economies. The Committee noted the statistics contained in the report entitled “Understanding child labour in El Salvador”, published by ILO-IPEC in 2003. According to this report, over 222,475 children between the ages of 5 and 17 years worked in El Salvador in 2001, of whom 109,000 were between the ages of 5 and 14 years. The percentage of children engaged in work increased with age. While under 2 per cent of children between the ages of 5 and 9 years were engaged in work, the rate was approximately 13 per cent for those aged between 10 and 14 years. The Committee noted that difficulties appeared to be encountered in the application in practice of the legislation on child labour. It expressed its deep concern at the situation of children under the age of 14 years who are obliged to work in El Salvador and strongly encouraged the Government to renew its efforts to improve this situation progressively.

The Committee takes due note of the information provided by the Government to the effect that the Ministry of Labour and Social Insurance has undertaken intense supervisory and inspection activities in the sugar cane sector. Numerous inspections have been carried out in the country, particularly in areas that are not generally subject to inspection. The Committee notes that, according to the statistical data contained in the national household survey carried out in 2005 (EHPM), the number of working children is in decline. Accordingly, around 207,460 children between the ages of 5 and 17 years are reported to be engaged in work, or 9.8 per cent. Most children work in the agricultural sector and in services, such as hotels and restaurants. The Committee greatly appreciates the efforts made by the Government to combat child labour. ***It therefore strongly encourages the Government to continue its efforts to improve the situation progressively and requests the Government to continue providing detailed information on the manner in which the Convention is applied in practice including, for example, statistical data disaggregated by sex on the nature, extent and trends of work by children and young persons under the minimum age specified by the Government when ratifying the Convention and extracts of the reports of the inspection services.***

Article 2, paragraph 3. Compulsory schooling. In its previous comments, the Committee noted the indication by the ICFTU that education is compulsory and free of charge up to the age of 14 years in El Salvador, but that additional fees have to be paid, which prevent the children of poor families from attending school. The ICFTU concluded that the authorities should facilitate access to education by the children of poor families. The Committee noted the Government’s indication that, although the national legislation does not establish a specific age for the completion of compulsory schooling, it may be inferred, under section 114 of the Labour Code, that the age of completion of compulsory schooling is 14 years. It also noted that the Ministry of Education (MINED) had shown its determination to improve the education situation in El Salvador by undertaking several reforms in this field. The Committee encouraged the Government to pursue its efforts in this field and requested it to provide additional information on the measures that it intends to take to facilitate the access of children to school.

The Committee notes the many educational programmes implemented by the Ministry of Education in the context of Plan 2021, the objective of which is to facilitate the access to education of the greatest possible number of children. It also notes the statistical data on the school attendance rate of children between the ages of 5 and 17 years in El Salvador in 2003. According to these data, the percentage of children who work is increasing solely in rural areas. While the percentage of registrations is balanced, with 50 per cent in rural areas and 50 per cent in urban areas, the percentage of children engaged in work is 76.2 per cent in rural areas. ***The Committee encourages the Government to continue its***

efforts to facilitate the access of children to education, taking into account the specific situation of children in rural areas. It requests the Government to provide information on the implementation of the many educational programmes carried out by the Ministry of Education in the context of Plan 2021 and on the results achieved in terms of school attendance in El Salvador.

The Committee is also raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes with interest the detailed information sent by the Government in its report in reply to the general observation on the trafficking of children for purposes of economic or sexual exploitation that the Committee made at its 2004 session. The Committee notes that, as well as legislative measures, the Government has undertaken administrative measures and engaged in advocacy and regional cooperation with other Central American countries, including Guatemala and Honduras, with a view to eliminating these problems.

Article 1 of the Convention. Measures taken to secure the prohibition and elimination of the worst forms of child labour. In its previous comments, the Committee noted the information provided by the Inter-Union Commission of El Salvador (CATS–CTD–CGT–CTS–CSTS–CUTS) to the effect that the number of children engaged in the worst forms of child labour had increased in the country. Moreover, no measures had been taken to improve knowledge of the worst forms of child labour and eliminate them and that the trade union organizations had not been consulted for this purpose. In this respect, the Government stated that several measures had been taken to eliminate child labour, particularly its worst forms, including: participation in the **Time-bound Programme (TBP)** on the worst forms of child labour; a national plan drawn up in the context of the **TBP** to eliminate the worst forms of child labour (2002–05); the preparation of “rapid assessment” studies, enabling five of the worst of forms of child labour to be determined for which there would be priority action: the fireworks industry, the fishing sector, refuse dumps, sugar plantations and sexual exploitation. The Committee requested the Government to provide information on the implementation and outcome of the **TBP**.

The Committee notes with interest the information provided by the Government to the effect that more than 41,650 children either sexually exploited for commercial purposes or working in the sugar, coffee and fireworks sectors, public refuse dumps and street markets have benefited from the numerous projects implemented under the **TBP**. Of these, more than 12,040 children have been removed from one of these worst forms of child labour and more than 29,600 have been prevented from working. Furthermore, more than 78,790 children have benefited from various forms of assistance such as vocational training, psychological counselling, health and nutrition services, refresher and literacy courses and school equipment; and around 5,130 parents have likewise benefited indirectly from the projects. The Committee also notes that the National Committee for the Elimination of the Worst of Forms Child Labour, created in 2005, has drawn up a new national plan for the elimination of the worst forms of child labour, the aim of which is to strengthen the legal framework relating to child labour and its worst forms. The Committee furthermore takes due note that the Government is committed to pursuing its efforts to eliminate the worst forms of child labour by preparing and implementing action programmes. **The Committee requests the Government to continue to provide information on the implementation of the TBP and the new national plan. Please also send a copy to the Office.**

Article 3. Worst forms of child labour. Clause (a). Sale and trafficking of children for the purpose of sexual exploitation. The Committee noted previously that according to the CATS–CTD–CGT–CTS–CSTS–CUTS, an ever-increasing number of boys and girls were sexually exploited in El Salvador. It further noted that, according to the ICFTU, the trafficking of people for the purpose of sexual exploitation, particularly in forced prostitution rings involving children, was a serious problem in El Salvador, the child victims of the trafficking coming from Mexico, Guatemala and other countries in the region for the purposes of prostitution. The ICFTU further indicated that there was an internal trafficking network. The Committee noted in this respect the amendments to sections 169, 170 and 367-B of the Penal Code and observed that, although the legislation was in keeping with the Convention on this point, the sale and trafficking of children for the purpose of sexual exploitation was in practice a problem. The Committee therefore requested the Government to redouble its efforts to ensure effective application of the legislation to protect children against sale and trafficking for the purpose of sexual exploitation, particularly prostitution.

The Committee takes due note of the numerous measures taken by the Government to ensure observance in El Salvador of this provision of the Convention. It notes in particular that the national police force has carried out searches of establishments in various towns, in which a number of child victims of commercial sexual exploitation have been found and the persons directly involved in the crime convicted. The Committee also notes that the Ministry of Governance and the General Directorate of Immigration and the Status of Foreigners have drawn up a bill on immigration and general regulations regarding foreigners. **The Committee is of the view that the adoption of this new legislation will improve the protection of children against trafficking, already established in the legislation currently in force in El Salvador. It expresses the hope that the Bill will become law shortly and requests the Government to provide information on any progress made in this matter. It again encourages the Government to redouble its efforts to secure protection for children under 18 years of age against sale and trafficking for the purpose of sexual exploitation, and requests it to continue to provide information on the imposition of penalties in practice, including reports showing the number of convictions.**

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. *National action plan against the commercial sexual exploitation of girls, boys and young persons.* With reference to its previous comments, the Committee notes that a working group on the commercial sexual exploitation of boys, girls and young persons, created in 2004, has a mandate to develop a national action plan against the commercial sexual exploitation of girls, boys and adolescents, and has drawn up a strategic plan for the purpose for the years 2006–09. ***The Committee requests the Government to provide information on the implementation of the strategic plan and to send a copy of it to the Office.***

2. *Regional project.* The Committee notes that a regional project for the prevention and elimination of the commercial sexual exploitation of children in Central America, Panama and the Dominican Republic is being carried out in the country in collaboration with ILO-IPEC. ***It requests the Government to provide information on the results obtained from implementing the project.***

Article 7, paragraph 2. Effective and time-bound measures. Clauses (a) and (b). Preventing children from being engaged in the worst forms of child labour and removing them therefrom. 1. *Implementation of the TBP.* With reference to its previous comments in which it asked the Government to indicate the number of children who will be saved from commercial sexual exploitation following implementation of the **TBP**, the Committee notes that, according to the Government, the objective of the **TBP** is to prevent 200 children from being engaged in this worst form of child labour and to remove 100 children from it. It notes in this connection that, according to the statistical data supplied by the Government in its report, 121 children were prevented from being engaged in this worst form of child labour and that 32 were withdrawn from it. ***The Committee encourages the Government to pursue its efforts and asks it to continue to provide information on the number of children actually prevented from being engaged or removed from this worst form of child labour following implementation of the TBP.***

2. *Other measures.* The Committee takes due note of the many preventive measures taken by the Government to prevent children from being the victims of trafficking for the purposes of commercial sexual exploitation. It notes in particular the following: (i) an increase in the strength of the police force responsible for land, maritime and air frontiers; (ii) the patrolling of land borders shared with Guatemala and Honduras that are not supervised by law; (iii) training of a patrol group composed of Salvadorean and Guatemalan police officers to supervise 25 kilometres of common border; (iv) the adoption of a directive requiring employees of the General Directorate of Immigration and the Status of Foreigners to demand that all minors under 18 years of age leaving the country show their passports and be accompanied by their parents or legal guardians; (v) the opening of accommodation centres at borders for the victims of trafficking; (vi) the implementation of measures for the rehabilitation and social integration of victims of trafficking, such as vocational, refresher and literacy courses and psychological follow-up.

Clause (c). Access to free basic education. The Committee noted previously that, according to the ICFTU, education is compulsory and free until the age of 14 years in El Salvador, but there are extra charges that prevent the children of poor families from attending school. The ICFTU concluded that the authorities should facilitate access to education for children of poor families. The great majority of children who work do so to the detriment of school attendance. The Committee noted that in the context of the **TBP**, there were educational measures for children removed from the worst forms of child labour in question, particularly the trafficking of children for purposes of commercial sexual exploitation. It requested the Government to provide information on the number of children removed from such labour who have actually been reintegrated in basic education or follow pre-vocational or vocational training courses. The Committee notes that the Ministry of Education has set up education centres in areas with a high rate of child labour and that the centres aim to help children withdrawn from the worst forms of child labour who have studying problems. It notes that at present, more than 3,500 children are benefiting from the refresher courses provided by the education centres.

Clause (d). Children at special risk. In its previous comments, the Committee noted that, according to the CATS–CTD–CGT–CTS–CSTS–CUTS, a growing number of boys and girls are the victims of hazardous working conditions. Street work exposes them to various abuses and accidents. Moreover, the practice of “handing over” boys and girls to families still exists in the country. These children are then used as domestic servants and work for long hours without adequate remuneration and without attending school. The Committee took note of a rapid assessment study on domestic work done by children published by ILO-IPEC in February 2002, according to which 93.6 per cent of children working in domestic service are girls. It expressed concern at the situation of child domestic workers in El Salvador and asked the Government to pursue its efforts and to take the necessary steps to intervene rapidly in this sector. It notes the Government’s statement that it will take the necessary steps for prompt intervention regarding children used as domestic servants. ***Noting that children used as domestic workers are exploited in various ways, the Committee urges the Government to take immediate steps to protect these children from the worst forms of child labour.***

Clause (e). Special situation of girls. The Committee noted previously that according to the document “Combating the Worst Forms of Child Labour in El Salvador (2002–05)”, 66 per cent of the children sexually exploited in the country for commercial purposes are girls, and 34 per cent, boys. It observed that the percentage of girls so engaged was considerable and asked the Government to indicate how it intended to pay particular attention to these girls and remove them from the worst forms of child labour. The Committee takes note of the advocacy activities regarding children who are the most vulnerable to trafficking for commercial sexual exploitation in the country. It takes due note of the information sent by the Government that two guides, one on measures enabling early detection of the commercial sexual exploitation of girls and the other on measures for the protection of victims, have been published.

Article 8. International cooperation and assistance. Poverty reduction. The Committee notes the information sent by the Government that under the programme “Solidarity and Opportunities Network of the Government of El Salvador”, a series of social actions are under way to secure a significant reduction in poverty among 100,000 families distributed in the 100 poorest municipalities of El Salvador. The programme provides for a procedure providing participating families with an economic alternative, in exchange for which the children of the families must attend school. With this programme, the Government hopes to remove a number of children from worst forms of child labour. ***The Committee requests the Government to provide information on the results obtained from implementation of the programme, particularly the number of children actually removed from worst forms of child labour, particularly the trafficking of children for commercial sexual exploitation.***

The Committee is raising other matters in a request addressed directly to the Government.

Gabon

Minimum Age (Underground Work) Convention, 1965 (No. 123) ***(ratification: 1968)***

The Committee notes the Government’s report, but regrets to note that, despite its repeated requests over the last 30 years, the Government has still not taken legislative steps to give effect to certain provisions of the Convention. ***It asks the Government to ensure it takes the necessary steps in the near future.***

Article 2, paragraph 1, of the Convention. Minimum age. In its previous comments, the Committee asked the Government to indicate the measures adopted to amend section 2(5) of Decree No. 275 of 5 December 1962 so as to prohibit the employment of young persons under the age of 18 years not only in extraction and earthworks, but also in all underground employment or work in mines and quarries. The Committee once again notes the Government’s information according to which the only underground mining concern in Gabon has ceased activities. Nevertheless, the Committee wishes to remind the Government that, under *Article 1, paragraph 2*, the provisions of the Convention concerning employment or work underground in mines include employment or work underground in quarries. ***The Committee urges the Government to take the necessary steps to ensure that the minimum age for employment which, according to the Government, was 18 years when it ratified the Convention, applies to all employment or work underground, both in mines and quarries.***

Article 4, paragraphs 4(b) and 5. Records of persons who are employed or work underground. In its previous comments, the Committee asked the Government to provide a copy of the order of the Minister of Labour determining the model for employer’s records and to provide a copy of such records, and to indicate the measures taken to ensure that the lists established in accordance with *Article 4, paragraph 5*, of the Convention are made available to workers’ representatives, at their request, and to provide a copy of a model of such lists. The Committee notes the information provided by the Government according to which General Order No. 3018 of 29 September 1953 establishes the model for employers’ records and that, at present, no law or regulation requires the information in these records to be made available to workers’ representatives. ***The Committee once again asks the Government to provide a copy of General Order No. 3018 of 29 September 1953 establishing the model for employers’ records. It also asks the Government to take the necessary steps to bring national legislation into line with Article 4, paragraph 5, of the Convention, and to ensure that employers shall make available to the workers’ representatives, at their request, lists of the persons who are employed or work underground and who are less than two years older than the specified minimum age; such lists shall contain the dates of birth of such persons and the dates on which they were employed or worked underground in the undertaking for the first time.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the Government’s report.

Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children. In its previous comments, the Committee noted that Gabon had undertaken to carry out the work of harmonizing the legislation prohibiting the trafficking of children in the context of the Subregional Project on Combating the Trafficking in Children for Labour Exploitation in West and Central Africa (IPEC/LUTRENA). In this respect, the Committee notes that, despite the economic and financial difficulties experienced by the country, the Government has adopted a number of measures to prohibit and eliminate the sale and trafficking of children for economic and sexual exploitation. It notes with interest the adoption of two new decrees, namely Decree No. 007141/PR/MTE/MEFBP of 22 September 2005 (hereinafter Decree 007141), establishing penalties for offences in the fields of labour, employment, occupational safety and health and social security and Decree No. 0024/PR/MTE of 6 January 2005 (hereinafter Decree 0024), establishing the conditions for supervision, searches and investigations with a view to preventing and combating the trafficking of children in the Republic of Gabon. ***The Committee requests the Government to provide copies of Decree 007141 and Decree 0024.***

Article 5. Monitoring mechanisms. 1. Council to Prevent and Combat the Trafficking of Children. The Committee noted in previous comments that a Council to Prevent and Combat the Trafficking of Children, an administrative body, had been established specializing in preventing and combating the trafficking of children. It requested the Government to

provide information on the work of the Council. The Committee notes the information provided by the Government to the effect that the Council is composed of representatives of employers' and workers' organizations. The Council is responsible for detecting cases of the trafficking of children, identifying victims, removing the victims from their situation of exploitation, protecting their rights, promoting information and awareness raising with a view to preventing this scourge and, finally, replicating the action of the Council at the provincial level. ***The Committee requests the Government to continue providing information on the work of the Council to Prevent and Combat the Trafficking of Children, including a copy of its annual report.***

2. *Labour inspection.* The Committee notes the Government's indication that, under the terms of section 4 of Decree 007141, a labour inspector may impose penalties directly in the case of offences relating to the trafficking of children. ***The Committee requests the Government to provide information on the measures taken in relation to the implementation of the Decree to enable labour inspectors to discharge their duties.***

Article 7, paragraph 2. Effective and time-bound measures. The Committee takes due note of the efforts made by the Government with a view to the implementation of Phases III and IV of the IPEC/LUTRENA project. ***It encourages the Government to pursue its efforts to combat the worst forms of child labour.***

Clause (a). Preventing the engagement of children in the worst forms of child labour. In its previous comments, the Committee noted that sections 4 and 5 of Act No. 09/2004 of 21 September 2004, to prevent and combat the trafficking of children in the Republic of Gabon (Act No. 09/2004), provide for prevention measures, including the organization of awareness-raising and information campaigns among families and children, with the participation of legally recognized non-governmental organizations (NGOs) and civil society. The Committee also noted that, according to the information on the IPEC/LUTRENA project available to the Office, around 90 children had been prevented from becoming victims of sale or trafficking. ***Noting the absence of information in the Government's report, the Committee once again requests it to provide information on the application, in practice, of sections 4 and 5 of Act No. 09/2004, particularly in relation to the measures adopted to prevent children from becoming victims of sale and trafficking for economic and sexual exploitation.***

Clause (b). Assistance for the removal of children from the worst forms of child labour. Reception centre and medical and social assistance for child victims of trafficking. The Committee noted previously that section 5 of Act No. 09/2004 provides for the establishment of specific medical and social assistance for children who are victims of trafficking and for the establishment of reception centres for child victims of trafficking before their repatriation to their country of origin. The Committee also noted that, according to the information on the IPEC/LUTRENA project available to the Office, some 75 child victims of trafficking had been removed from this worst form of child labour. It also noted that these children had benefited from medical and social services and guidance, and that some of them had been returned to their families. The Committee requested the Government to provide information on the effect given in practice to section 5 of Act No. 09/2004. The Committee notes that the Government has not provided any information on this point. However, it notes the Government's indication that a manual of procedures for dealing with child victims of trafficking has been prepared. ***The Committee therefore requests the Government to provide information on the effect given in practice to this manual of procedures and to provide a copy. It also requests the Government to provide information on the application and impact in practice of section 5 of Act No. 09/2004, particularly with regard to: (1) the number and location of the reception centres for child victims of trafficking which have been established in the country to receive child victims of trafficking who have been removed from this worst form of child labour; and (2) the specific medical and social assistance programmes formulated and implemented for child victims of trafficking, particularly with regard to the measures taken to ensure their rehabilitation and social integration following their removal from this worst form of child labour.***

Clause (c). Ensuring access to free basic education and vocational training for all children removed from the worst forms of child labour. The Committee notes that the Government has not provided any information on this matter. It recalls that education is one of the most effective means of combating child labour, and particularly its worst forms. ***The Committee once again urges the Government to provide information on the measures established in the context of the IPEC/LUTRENA project to enable child victims of trafficking who are removed from this worst form of child labour to have access to free basic education and vocational training.***

Article 8. International cooperation. In its previous comments, the Committee noted the Government's indication that a system of dialogue had been established between Gabon and the countries of origin of child workers with a view to the elimination of the trafficking of children. It requested the Government to provide additional information on the system of dialogue established between Gabon and the countries of origin of child victims of trafficking, and particularly on whether exchanges of information had led to the identification and arrest of persons involved in networks engaged in the trafficking of children. The Committee once again notes that the Government has not provided any information on this subject. ***It therefore once again urges the Government to provide information on the system of dialogue established between Gabon and the countries of origin of child victims of trafficking, and particularly whether exchanges of information have led to: (1) the identification and arrest of persons involved in networks engaged in the trafficking of children; and (2) the detection and interception of child victims of trafficking in frontier areas.***

Part V of the report form. Application of the Convention in practice. In its previous comments, the Committee noted that section 14 of Act No. 09/2004 provides that officers of the judicial police and public officials in the Ministry for

the Family and the Protection of Children and the Ministry of Labour and Employment may undertake the investigations, controls and searches necessary for its application. The Committee requested the Government to provide information on the application of Act No. 09/2004 in practice. The Committee notes the Government's indication that Decree 0024 was adopted under section 14 of Act No. 09/2004 and establishes the conditions for investigations, controls and searches in the field of the trafficking of children. ***It requests the Government to provide information on the measures adopted for the implementation of the provisions of this Decree with a view to protecting child victims of trafficking or removing them from this worst form of child labour, such as increasing the numbers of police officers on the land, maritime and air frontiers, the establishment of common patrols on national borders and the opening of transit centres on borders with neighbouring countries. It also requests the Government to provide information on the number and nature of the infringements reported, the investigations undertaken, prosecutions, convictions and the penal sanctions applied.***

A request on other points is also being addressed directly to the Government.

Georgia

Minimum Age Convention, 1973 (No. 138) (ratification: 1996)

The Committee notes the Government's report and the comments of the Georgian Trade Unions Confederation (GTUC) dated 30 August 2006. ***It requests the Government to provide further information on the following points.***

Article 2, paragraph 1, of the Convention. Scope of application. The Committee notes the comments made by the GTUC, that according to UNICEF estimates 30 per cent of the children between the ages of 5 and 15 years work in Georgia. There are reports of children between the ages of 7 and 12 years working on the streets of Tbilisi, in markets, carrying or loading wares, selling goods in underground carriages, as well as at different fairs and railway stations. Moreover, according to information provided to the GTUC by the trade union of agricultural workers, child labour is widely used in the agricultural sector at harvest time in the following regions: Bolnisi area (Sarachlo and Pahrulo villages), Marneula area (Gomargweba and Hesil-Adglo villages), and Tsalka and Ahalkalaki areas. The Committee notes the Government's indication that self-employment is not regulated by the legislation of Georgia. The Committee reminds the Government that the Convention applies to all branches of economic activity and covers all types of work or employment. ***The Committee therefore requests the Government to provide information on the manner in which the protection afforded by the Convention is secured for children who work in the agricultural sector as well as those children working on their own account.***

Article 3, paragraph 1. Age of admission to hazardous work. The Committee notes the comments by the GTUC, that hard, unhealthy and hazardous work is prohibited for children below the age of 16, while Convention No. 138 obliges the national authorities to stipulate the minimum age of 18 years for admission to hazardous work. The Committee notes the Government's statement that, by virtue of the legislation in force, under-age persons means persons under the age of 18 years. The Committee also takes note of the Government's statement that the employers' and employees' representative organizations collaborated in the discussions of the new Labour Code. The Committee notes that, by virtue of section 4(5) of the new Labour Code (entered into force on 4 July 2006), it is prohibited to conclude a contract with under-age persons for hard, unhealthy and hazardous work. Section 4, subsection (4), of the Labour Code prohibits under-age persons from entering into a contract for work related to the gambling business, night entertainment institutions, pornography production and the production and conveyance of pharmaceutical and toxic substances. It notes that section 18 of the Labour Code prohibits the employment of minors for night work (from 10 p.m. to 6 a.m.). ***The Committee requests the Government to indicate which legal provision defines under-age persons as persons under the age of 18 years and to provide a copy thereof.***

Article 3, paragraph 2. Determination of hazardous work. The Committee notes the Government's information that, under the new Labour Code, a draft list of hard, harmful and hazardous work has been elaborated. The draft list is currently passing through in-state procedures, upon completion of which it should be adopted. The Committee notes the Government's statement that the draft list has been sent to employees' and employers' organizations for approval. The Committee also notes that section 54(1)(b) of the Labour Code provides that the Georgian Ministry of Labour, Health and Social Affairs should elaborate and adopt the list of hard, hazardous and dangerous jobs, and the labour safety rules within four months after the law enters into force. ***The Committee asks the Government to inform it on the progress made in adopting the list of hazardous types of work and to provide a copy thereof, as soon as it has been adopted.***

Article 7, paragraphs 1 and 3. Light work and determination of light work. The Committee notes the comments by the GTUC that the hours of work of young workers are not limited. As per section 14 of the Labour Code, if parties do not agree otherwise, a working week shall not exceed 41 hours, which is also applicable to young workers. The Committee notes the Government's information that an extended list of light work no longer exists in the Georgian legislation and that it does not limit the working hours for persons from 13 to 15 years of age. The Committee notes that, according to section 4(2) of the new Labour Code, persons below 16 years of age shall work with the consent of their lawful representative or guardian, if such labour relations do not conflict with the young persons' interests, do not damage their moral, physical or mental development and do not limit their right and ability to obtain compulsory, elementary and basic education. The Committee also notes that, by virtue of section 4(3) of the Labour Code, a labour agreement with persons younger than 14 years of age can be made only on performance of work related to sports, arts and cultural activities or for

advertisement activities. Therefore, the Labour Code seems to allow children between 14 and 16 years to perform light work under the conditions specified under section 4(2) of the Labour Code. The Committee recalls that according to *Article 7, paragraph 3*, of the Convention, the competent authority shall determine the activities in which employment or work may be permitted and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken. ***The Committee therefore requests the Government to indicate the measures adopted to determine the number of hours during which and the conditions in which light work may be undertaken by young persons above the age of 14 years.***

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

Guatemala

Minimum Age Convention, 1973 (No. 138) (ratification: 1990)

The Committee notes with interest the adoption of Government Agreement No. 112-2006 of 7 March 2006 issuing Regulations on the protection of children and young persons at work [hereinafter, Regulations on the protection of children and young persons at work].

Article 1 of the Convention. National policy. 1. Prevention and elimination of child labour. In its previous comments, the Committee noted the National Plan for the Prevention and Elimination of Child Labour and the Protection of Young Workers (2001–04). The Committee notes the information provided by the Government that in June 2006 consultations were held on the evaluation of the National Plan (2001–04), in collaboration with ILO-IPEC, with a view to obtaining information as a basis for the formulation of a new National Plan for 2007–12. ***The Committee requests the Government to provide information on the implementation of the new National Plan for the Prevention and Elimination of Child Labour and the Protection of Young Workers (2007–12), particularly in terms of the elimination of child labour.***

2. Domestic work. The Committee notes the information provided by the Government in its report that the Monitoring Committee for the Prevention and Elimination of Child Domestic Work in Private Houses has prepared a plan of action. ***It requests the Government to provide information on the implementation of this plan of action and to provide a copy.***

Article 2, paragraphs 1 and 4, and Part V of the report form. Minimum age for admission to employment or work and application in practice. In its previous comments, the Committee noted the indications by the ICFTU that child labour is very widespread in Guatemala. The ICFTU referred to government statistics indicating that around 821,875 children between the ages of 7 and 14 years are economically active, most of them in agriculture and informal urban activities. The Committee noted the Government's indication that the study entitled "Understanding child labour in Guatemala", carried out in 2000 by the National Statistical Institute (INE), shows that around 507,000 boys and girls between the ages of 7 and 14 years are engaged in work in Guatemala, representing 20 per cent of this population group. The agricultural sector is the activity with most child workers aged between 7 and 14 years (62 per cent), followed by commerce (16.1 per cent), manufacturing (10.7 per cent), services (6.1 per cent), construction (3.1 per cent) and others (1.2 per cent). The Committee noted that the Labour Code and the Act on the integral protection of children and young persons of 2003 prohibit work by children under 14 years of age in any activity, including the informal economy. However, it noted that it appeared difficult to apply the legislation on child labour in practice and that child labour is very widespread in Guatemala. The Committee expressed deep concern at the situation of children under 14 years of age compelled to work in Guatemala and requested the Government to provide information on the manner in which the Convention is applied in practice.

The Committee takes due note of the information provided by the Government. In particular, it notes the reports of the labour inspection service and the Special Labour Inspection Unit, which include detailed statistics and information on the inspections carried out in workplaces and work centres. The Committee also notes the Government's indication that it has taken measures to remove children from activities that endanger their health and expose them to various risks. The Committee further notes that the Regulations on the protection of children and young persons at work prohibit work by children under 14 years of age and include provisions on the protection of children and young persons engaged in an economic activity. ***The Committee once again encourages the Government to step up its efforts to progressively improve the situation of children under the age of 14 years who are compelled to work in Guatemala. It requests it to continue providing detailed information on the manner in which the Convention is applied in practice including, for instance, statistical information on the nature, extent and trends of work by children under the minimum age specified by the Government when ratifying the Convention, extracts from the reports of the inspection services, information on the number and nature of the infringements reported and on the penalties applied.***

Article 3, paragraph 2. Determination of hazardous types of work. Production and handling of explosive substances and objects. The Committee, in its previous comments, noted the indication by the ICFTU that child workers are engaged in extremely dangerous activities, such as the production of fireworks and in stone quarries. The ICFTU emphasized that work in the fireworks industry is particularly dangerous and that children are often seriously injured. In addition, according to the ICFTU, although most of these activities take place in family-run workshops, about 10 per cent of the children work in factories, where they perform the most dangerous tasks, such as measuring out explosives. The

Committee noted that the list of 29 types of hazardous work determined by the Government includes the fireworks industry and construction, including activities which entail working with stone. It also noted that, according to a document of 2004 entitled "Census of children removed from the fireworks industry", 4,521 children under 13 years of age had been withdrawn from their work. Of this total, 72 had benefited from an alternative activity, 923 from a credit granted to their families and 3,526 received a "peace grant". The Committee however noted that only children under 13 years of age had been removed from their work in the fireworks industry. It requested the Government to take measures to ensure that no person under 18 years of age is employed in the fireworks industry and to provide information on the number of children removed from the industry.

The Committee notes with interest the detailed information provided by the Government on the measures that it has taken to combat child labour in the fireworks industry, including: the adoption of Government Agreement No. 28-2004 of 12 January 2004 issuing regulations on firework production; the training activities undertaken for employers, technicians and other collaborators on the applicable standards, occupational safety and the protection of young workers; and the number of children and families who have benefited from the programme of action. However, it notes that, according to the information provided by the Government, only children in households benefiting from the programme of action have been removed from this dangerous type of work, namely 1,840 children, which represents less than 10 per cent of all the young persons engaged in this industry.

The Committee notes the information provided by the Government that the municipal authorities of San Juan and San Raymundo are the largest producers of explosives and fireworks in the country and that they account for 90 per cent of the national production. It also notes the Government's indication that the use of child workers in these two municipal areas is frequent, particularly in view of the method of production used, namely work in private houses, which means that the parents are the greatest exploiters. The Committee notes with interest that section 7(a) of the Regulation on the application of Convention No. 182 prohibits work by persons under 18 years of age in the manufacture, dosage and handling of explosive substances or objects and the production of explosives or fireworks. It also notes that, by virtue of section 4(b) and (c), the Regulation applies to employers and parents who use young persons under 18 years of age in any of the prohibited activities and that, by virtue of section 5 of the Regulation, such persons shall be held responsible and liable to penalties. *The Committee notes the efforts made by the Government to bring an end to the use of young persons under 18 years of age in this dangerous activity and encourages it to pursue its efforts. It requests the Government to provide information on the effect given in practice to the Regulation on the application of Convention No. 182. The Committee also requests the Government to continue taking the necessary measures to remove children from this sector of economic activity and to provide information on the number of children who are removed from this hazardous type of work.*

The Committee is also raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the information provided by the Government in reply to the comments made by the Trade Union Confederation of Guatemala (UNSITRAGUA) in 2004. It also notes the detailed information provided by the Government in reply to the general observation on the trafficking of children for economic and sexual exploitation made by the Committee in 2004. In this respect, the Committee notes that, in addition to legislative measures, the Government has undertaken awareness-raising campaigns for the population, adopted administrative measures and established regional cooperation programmes with other Central American countries, and particularly Mexico, with a view to eliminating this problem.

Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children for commercial sexual exploitation. In its previous comments, the Committee noted the observations made by the International Confederation of Free Trade Unions (ICFTU) reporting the problem in the country of the trafficking of persons, including children, for prostitution. The majority of child victims of trafficking are from neighbouring countries, and particularly from border regions with Mexico and El Salvador. The Committee also noted the observations of UNSITRAGUA according to which many boys and girls who are victims of trafficking are from neighbouring countries and are used for sexual exploitation, including prostitution. According to UNSITRAGUA, this practice is facilitated by the absence of adequate controls resulting from the lack of regulation. The Committee noted that previously, in her report of January 2000 (E/CN.4/2000/73/Add.2, paragraphs 46 and 47), the United Nations Special Rapporteur on the sale of children, child prostitution and child pornography indicated that several cases of the sale of children for prostitution had been reported to her. Moreover, state officials had also informed her that children from El Salvador, Honduras, Mexico and Nicaragua were engaged in prostitution in Guatemala, and that Guatemalan children go to those countries for the same reason. The Committee noted that sections 188–190 and 194 of the Penal Code contain provisions prohibiting and penalizing prostitution, the corruption of minors and trafficking for the purposes of prostitution. It requested the Government to provide information on the application of these prohibitions and penalties in practice.

The Committee notes the information provided by the Government on violations and convictions. In this respect, it notes that, according to the information provided by the Government and that available to the Office, one of the problems encountered in Guatemala in combating the commercial sexual exploitation of children is the effective enforcement of the national legislation, as difficulties are often experienced in dealing with these offences, particularly in view of the

inadequacy of the legislation. The Committee notes with satisfaction that section 194 of the Penal Code, as amended by Decree No. 14-2005 of 3 February 2005 amending section 194 of the Penal Code [Decree No. 14-2005 of 3 February 2005], prohibits the trafficking of persons, including minors, for exploitation, prostitution, pornography or any other form of sexual exploitation and establishes penalties of between six and 12 years' imprisonment for any person found guilty of this offence. The Committee notes the information provided by the Government that Congress is currently examining a draft reform of the Penal Code criminalizing commercial sexual exploitation. The Committee notes that, although the Government has taken measures to combat this worst form of child labour, the problem still exists in practice. It observes that the difficulties encountered arise from the fact that the national legislation is not effectively enforced.

The Committee considers that this reform of the Penal Code will improve the protection in relation to the commercial sexual exploitation of children and trafficking for this purpose that is already established by the current legislation in force in the country. It once again encourages the Government to redouble its efforts to ensure the protection of young persons under 18 years of age against sale and trafficking for sexual exploitation. Noting that 60 convictions were obtained in 2004 and 2005, the Committee requests the Government to provide precise information on the effect given to section 194 of the Penal Code in practice including, for instance, reports on the number and nature of the infringements reported, investigations undertaken, charges brought, convictions and penalties applied.

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. National Plan of Action to combat the commercial sexual exploitation of children. With reference to its previous comments, the Committee notes the information provided by the Government that it is currently evaluating the measures taken in the context of the "National Plan of Action to combat the commercial sexual exploitation of girls, boys and young persons in Guatemala" and the results achieved with a view to formulating a new plan. ***The Committee requests the Government to provide a copy of the new plan of action to combat the commercial sexual exploitation of girls, boys and young persons in Guatemala and to supply information on its implementation.***

2. ILO-IPEC projects. The Committee notes that the Government is participating in over 13 ILO-IPEC projects concerning the commercial sexual exploitation of children. ***It requests the Government to provide information on the measures taken in the context of the implementation of these projects to eliminate this worst form of child labour and the results achieved.***

Article 7, paragraph 2. Effective and time-bound measures. The Committee notes with interest that, in the context of the ILO-IPEC regional project entitled "Participation in preventing and eliminating the commercial sexual exploitation of children in Central America, Panama and the Dominican Republic", in which Guatemala is participating, as well as Belize, Costa Rica, El Salvador, Honduras and Nicaragua, around 850 children at high risk of this worst form of child labour will be prevented from being engaged in it and over 870 children will be withdrawn from it. The Committee also notes that the project will benefit over 15,000 persons, including the family members concerned.

Clauses (a) and (b). Preventing the engagement of children and removing them from the worst forms of child labour. 1. Regional project on the prevention and elimination of the commercial sexual exploitation of children. The Committee notes that, in the context of the ILO-IPEC regional project on the prevention and elimination of the commercial sexual exploitation of children in Central America, Panama and the Dominican Republic, care has been provided to over 195 children and young persons who are victims of commercial sexual exploitation and over 145 have been removed from this worst form of child labour in Guatemala. It also notes that, according to the information available to the Office, by the end of the project, over 540 children will have been prevented from being engaged in this worst form of child labour or will be removed from it in Guatemala. ***The Committee requests the Government to provide information on the implementation of the ILO-IPEC regional project and on the results achieved in terms of: (a) preventing children from becoming victims of sexual exploitation or trafficking for that purpose; and (b) providing the necessary and appropriate direct assistance for the removal of children from these worst forms of child labour and for their rehabilitation and social integration. It also once again requests the Government to provide information on the economic alternatives provided.***

2. Other measures. (i) Measures adopted. The Committee takes due note of the many preventive measures adopted with a view to preventing children from becoming victims of trafficking for commercial sexual exploitation. In particular, it notes the following measures: (i) the preparation of training materials, including a manual for police officers and officials in the migration services on the procedure for identifying victims of trafficking and the measures to be adopted; (ii) a training seminar for state officials on the commercial sexual exploitation of children; and (iii) awareness-raising campaigns for the population.

(ii) Measures to be taken. In its previous comments, the Committee noted the Government's indication that it intended to establish a national database system on the sexual exploitation of children in 2007. It notes that the ILO-IPEC regional project envisages the strengthening of national institutional capacities. The Committee considers that collaboration and the exchange of information between the various actors concerned with the commercial sexual exploitation of children at the national and local levels, such as governmental organizations, employers' and workers' organizations, non-governmental organizations and other civil society organizations is an essential measure for preventing and eliminating commercial sexual exploitation. ***It requests the Government to provide information on the measures adopted for this purpose. As the country benefits from a certain level of tourism, the Committee also requests the Government to indicate whether measures have been adopted to raise the awareness of the actors directly involved in***

the tourist industry, such as associations of hotel owners, tourist operators, associations of taxi drivers and owners of bars, restaurants and their employees.

Article 8. International cooperation. Commercial sexual exploitation. In its previous comments, the Committee noted that, in the context of the implementation of the Public Policy and National Plan of Action for Childhood (2004–15), the Government planned to adopt measures in collaboration with neighbouring countries with a view to bringing to an end the sale and trafficking of girls, boys and young persons for the purposes of sexual exploitation. In this respect, the Committee notes with interest the information provided by the Government that, since June 2005, a register has been established for migrant men and women workers from the south of Chiapas by a working group set up by the Governments of Mexico and Guatemala. It notes that the coordination of this register is carried out by the border offices of the Ministry of Labour and Social Insurance, delegations of the General Directorate of Migration and the Guatemalan Consulate in Chiapas. The Committee also notes that the adoption of a regional protocol on the procedure for the repatriation of the victims of trafficking is currently being examined. The Committee is of the view that international cooperation between law enforcement agencies, particularly the judicial authorities and police forces, is indispensable to prevent and combat the trafficking of children, through the collection and exchange of information, and through assistance to detect and prosecute the individuals involved and to repatriate victims. *It requests the Government to provide information on the register for men and women migrant workers from the south of Chiapas in relation to the protection of young persons under 18 years of age against trafficking. It also requests the Government to provide information on the measures adopted with other countries participating in the ILO-IPEC project, including Belize, El Salvador and Honduras, to protect young persons under 18 years of age from becoming victims of trafficking and to remove them from this worst form of child labour, such as increasing the numbers of police officers on land, sea and air borders, the establishment of common patrols along territorial frontiers and the opening of transit centres on the borders with neighbouring countries.*

The Committee is also raising other matters in a request addressed directly to the Government.

India

Minimum Age (Industry) Convention, 1919 (No. 5) (ratification: 1955)

The Committee notes the Government's report.

Article 6 of the Convention. The Committee had previously noted the amendments made to the Schedule to the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter CLPR Act of 1986), in which the employment of children under 14 years is prohibited. The Committee noted that this amendment involved adding several occupations and processes to the Schedule such as “mines, stone breaking and stone crushing”, and had requested the Government to clarify the relation between this amendment and the minimum age of 18 years for work in mines as stipulated in the Mines Act, 1952, as amended by Act No. 42 of 1983. The Committee notes the Government's indication that, while the Mines Act remains in force, occupations and processes listed in the Schedule to the CLPR Act of 1986 are progressively being expanded in order to widen the scope of the Act and to cover more and more occupations and processes which are considered as detrimental to the health, safety and psyche of children, including those occupations and processes identified as dangerous and hazardous under the Factories Act. The Committee further notes with interest the Government's indication that during the period from 1998 to 2006, the list was amended by adding six occupations and 39 processes including: handloom and power loom industry; mines (underground and underwater) and collieries; transport of passengers and goods by rail; occupations within the limits of any ports; extraction of slate from mines, etc.

Enforcement of statutory provisions

The Committee notes the information supplied by the Government concerning its efforts to ensure the effective enforcement of statutory provisions giving effect to the Convention. It notes the Government's information that for industries in the Centre's sphere such as railways and ports, the Child labour (Prohibition and Regulation) Act, 1986, is enforced by the Government of India through the office of the Chief Labour Commissioner (Central), and in the state sphere, the Act is enforced by the respective state governments. The Committee notes from the Government's report that with regard to the enforcement of the above Act, in the central sphere, during the year 2003–04, 2,276 inspections were carried out, 5,811 irregularities detected, 4,606 irregularities rectified, 62 prosecutions launched and 25 convictions secured; in the year 2004–05, there were 1,949 inspections carried out, 3,865 irregularities detected, 4,314 irregularities rectified, 0 prosecutions launched, 2 convictions secured on brought forward prosecutions; and in the year 2005–06, 1,518 inspections carried out, 2,877 irregularities detected, 2,572 irregularities rectified, 26 prosecutions launched, and seven convictions obtained. Statistics in the state sphere indicate that for the year 2003–04, a total of 343,936 inspections were carried out, 26,411 violations detected, 9,159 prosecutions launched, and 3,988 convictions secured; and for the year 2004–05, 239,240 inspections were carried out, 16,617 violations were detected, 2,598 prosecutions launched, and 1,380 convictions obtained. The Committee also notes that with regard to the Factories Act, the data collected from the state governments indicate that in 2005–06, 5,148 inspections were conducted, 919 cases were prosecuted and 86 were convicted.

The Committee further notes from the Government's report that the National Child Labour Project Schemes (NCLPs) for the rehabilitation of child labourers, especially in the child labour endemic districts, provide a package of welfare measures including non-formal education, vocational training, midday meals, stipend and health care to children withdrawn from employment. The Committee notes the Government's information that the NCLPs, which were initiated in 12 districts in the 7th five-year plan with the objective of withdrawing and rehabilitating children working in identified hazardous occupations and processes, were extended to 100 districts in 13 states by the end of the 9th five-year plan (1997–2002), and has been further extended to cover 250 districts during the tenth five-year plan (2002–07). The Committee also notes the Government's information that the Government of India, with the support of the United States Department of Labor and in collaboration with ILO, launched a US\$40 million project aimed at eliminating child labour in ten hazardous sectors across 21 districts in five States namely Maharashtra, Madhya Pradesh, Tamil Nadu, Uttar Pradesh and the National Capital Territory (NCT) of Delhi. The Committee notes that this project intends to withdraw and rehabilitate an estimated 80,000 children and provide support activities to 10,000 families of former child workers. The Committee notes with interest the various measures taken by the Government to apply the Convention. ***The Committee requests the Government to continue to provide information on measures taken to ensure the strict and effective enforcement of the provisions giving effect to the Convention, as well as the results achieved, including, for example, extracts from official reports, particulars on the results of the inspections and prosecutions and statistics concerning child labour or elementary education.***

Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (ratification: 1950)

The Committee notes the Government's report.

In its previous comments, the Committee had noted the indications of the National Front of Indian Trade Unions (NFITU) that, while in the industrial undertakings, both private and public sectors, which are governed by the Factories Act, the Mines Act, the Plantations Act or similar legislation, the inspectorate supervises the implementation of the national legislation on night work of young persons, young persons working at night in the informal or unorganized sector, do not enjoy such safeguards. The Committee also noted the NFITU's indication that in practice, deviations from the principles laid down in the Convention are widespread, particularly in tea plantations, fisheries and domestic work. The Government indicates that the main legislation covering regulation of employment and conditions of service like working hours, holidays, etc. of workers in the unorganized sectors are: the Minimum Wage Act, 1948; the Equal Remuneration Act, 1976; the Contract Labour (Regulation and Abolition) Act, 1970; the Inter-state Migrant Workers (Regulation of Employment and Condition of Service (RECS)) Act, 1979; and the Building and Other Construction Workers (RECS) Act, 1996. The Committee also notes the Government's indication that, besides the abovementioned laws, various welfare and development schemes and programmes are being implemented for protecting workers in the unorganized sector. The Government adds that night work in shops and commercial establishments are prohibited under the Shops and Establishments Act, 1954, and that the Beedi and Cigar Workers (Conditions of Employment) Act, 1996, prohibit the employment of young persons at night. The Committee observes that according to *Article 1* of the Convention the term "industrial undertaking" includes particularly: (a) mines, quarries and other works for the extraction of minerals from the earth; (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in the shipbuilding or in the generation, transformation or transmission of electricity or motive power of any kind; (c) undertakings engaged in building and civil engineering work, including construction, repair, maintenance, alteration and demolition work; (d) undertakings engaged in the transport of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves, warehouses or airports. In this regard, it notes that the national legislation prohibits the night work of young persons in industrial undertakings both in the public and private sectors. The Committee further notes that the inspectorate supervises the implementation of the national legislation on night work of young persons in industrial undertakings.

Article 2, paragraphs 1 and 2, of the Convention. In its report, the Government states that the proposal for amending section 70(1A) of the Factories Act, 1948, pertaining to night period is still under examination by the Government. In the comments it has been making for many years, the Committee has noted that section 70(1A) of the Factories Act, 1948, as amended in 1987, prohibits the night work of adolescents under 17 years of age between 7 p.m. and 6 a.m., that is for a period of 11 consecutive hours. The Committee recalls that in *Article 2, paragraph 1*, of the Convention, the term "night" signifies a period of at least 12 consecutive hours. ***The Committee trusts that the Government will take the necessary steps to bring the law into conformity with the Convention on this point.***

Article 3, paragraph 2, Article 4, paragraph 2, and Article 5. In its previous comments, the Committee also noted that, under section 70(1A) of the Factories Act, 1948, state governments may vary the prescribed time limits and authorize exemptions in case of emergency where the national interest so demands. ***The Committee trusts that the Government will take the necessary measures to bring the legislation into line with Article 3, paragraph 2 (concerning children over the age of 15 years in the case of apprenticeships or vocational training in enterprises where work has to be carried out continuously), Article 4, paragraph 2 (concerning young persons over 15 years of age in the case of emergencies which interfere with the normal working of the undertaking), and Article 5 (concerning children over 15 years of age in exceptional circumstances where the public interest demands it) on this point.***

The Committee notes with regret that, despite repeated requests by the Committee, the Government has still not taken legislative measures to give effect to the above provisions of the Convention. ***It expresses the firm hope that the Government will take the necessary legislative measures in the near future to apply the above provisions of the Convention and requests it to inform it of any developments in this regard.***

Indonesia

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

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

Article 3 of the Convention. Worst forms of child labour. Clause (a). Slavery and practices similar to slavery. Sale and trafficking of children. The Committee notes the ICFTU's indication that the trafficking of persons, including for the purpose of prostitution, is widespread. The ICFTU also states that as many as 20 per cent of the 5 million migrant workers, who leave Indonesia to work in other countries, are victims of trafficking. The ICFTU further indicates that there are reports of the sale of children in exchange for promises of work and money.

In reply to the comments made by the ICFTU, the Government states that the elimination of trafficking is not an easy task since it relates to cross-border crimes. The Government also indicates that a draft Bill on trafficking is under preparation.

The Committee notes that section 68(2) of Law No. 23/2002 on Child Protection, prohibits the kidnapping, selling and trafficking of children under 18 years of age. Section 83 of that law imposes penalties on anyone who trades, sells or kidnaps children for personal or pecuniary gain. It notes that the term "trafficking" is not defined and that there appears to be no penalty for the offence of trafficking. ***The Committee hopes that the new Bill on trafficking will be adopted soon and will: (i) provide for a clear definition of the term "trafficking"; (ii) prohibit the trafficking of children under 18 years of age for labour or sexual exploitation; and (iii) provide for appropriately dissuasive penal sanctions. The Committee also requests the Government to provide information on progress made towards the adoption of the new Bill, and to provide a copy of it as soon as it is adopted.***

Article 5. Monitoring mechanisms. 1. Police. The Committee notes the Government's statement that the competency and capability of the officers responsible for combating trafficking will be continued and improved. The Committee observes that the police work in cooperation and collaboration with the Ministry of Social Welfare, the Ministry for Women's Affairs, the Ministry of Education, the Ministry of Foreign Affairs and other related ministries since January 2003. The police are also carrying out investigations in prostitution areas in different provinces which sometimes result in the arrest of the perpetrators of the trafficking and the finding and returning of victims to their places of origin. The Committee observes that a two-year police training project was launched, in August 2003, with the support of ILO-IPEC. ***The Committee accordingly asks the Government to provide information on the concrete measures taken to train the police on the worst forms of child labour, especially the trafficking of children under 18, and the results achieved.***

2. Labour inspectorate. The Committee notes that labour inspectors guarantee the implementation of labour laws and regulations (section 176 of the Manpower Act). Labour inspectors can be granted special authorization to act as civil servants. Hence, they have the authority to investigate individuals suspected of having committed a labour crime, to confiscate items found, to examine documents connected with labour crimes, and to request the assistance of experts. The Committee also notes the Government's indication that training sessions were conducted in several provinces to provide labour inspectors with the necessary knowledge to combat child trafficking. ***The Committee requests the Government to provide information on the inspections carried out by labour inspectors in order to combat the trafficking of children for labour and sexual exploitation, and the results achieved.***

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. National Action Plan. The Committee notes, with interest, that a five-year National Action Plan for Abolishing Woman and Child Trafficking was endorsed through Presidential Decree No. 88/2002 dated 30 December 2002. It notes that the National Action Plan provides for an overview of the situation of trafficking in children in Indonesia. According to an ILO assessment ("Support to the Indonesian National Plan of Action and the Development of the Time-Bound Programme for the Elimination of the Worst Forms of Child Labour", 2003 (pages 48 and 50)), 21,500 children were victims of trafficking for the purpose of prostitution in Java, in 2003. The trafficking of children for prostitution occurs mainly in Jakarta, West Java, Central Java, Yogyakarta and East Java. These locations have therefore been identified for primary interventions. The trafficking of children for the purpose of sexual exploitation also occurs at the international level; receiving countries include Malaysia (mainly Kuala Lumpur and Serawak), Brunei Darussalam, Hong Kong (China), Taiwan (China) and Australia (abovementioned ILO report, page 107). The Plan's objectives are to reduce by half the number of child victims of trafficking by 2013. The National Action Plan aims at: (a) ensuring the existence of legal norms and actions against traffickers of women and children; (b) guaranteeing the social rehabilitation and reintegration of victims of trafficking; (c) preventing all forms of trafficking; and (d) developing cooperation and coordination between institutions at the national and international levels that deal with the trafficking of women and children. The Committee also notes that one of the targets of the National Action Plan is to increase the number of crisis service centres for the rehabilitation and social reintegration of child victims of trafficking. It takes note of the Government's indication that 200 special centres for combating trafficking were established. A second target of the National Action Plan is to obtain a situational map of problems and criminal cases on trafficking in women and children. ***The Committee asks the Government to continue to provide information on the number of victims of trafficking who are under 18, the destination countries as well as the purpose of trafficking. The Committee also requests the Government to provide information on the achievements of the National Plan of Action for the Elimination of Trafficking in Women and Children, and its impact with regard to removing child victims of trafficking from labour or sexual exploitation and providing for their rehabilitation and social integration.***

2. Task force responsible for the implementation of the National Action Plan. The Committee notes the Government's indication to the Committee on the Rights of the Child (CRC/C/65/Add.23, 7 July 2003, additional report, pages 110 and 112) regarding the establishment of a task force to serve as one of the focal points for the implementation of the National Plan of Action for the Elimination of Trafficking in Women and Children. ***The Committee requests the Government to provide information on the results achieved by the task force with regard to the implementation of the abovementioned National Action Plan. It also requests the Government to increase its efforts to attain sustainable results in reducing child trafficking.***

3. *ILO-IPEC TICSА Project on combating child trafficking for sexual and labour exploitation.* The Committee notes from the information provided by the ILO's Jakarta Office that the subregional ILO-IPEC TICSА Project was adopted in June 2003 to complement the ILO-IPEC Project of Support to the Indonesian National Action Plan for the Elimination of the Worst Forms of Child Labour. The TICSА Project aims to contribute to the progressive elimination of trafficking in child labour and sexual exploitation in Indonesia. This will be done by: (i) assisting children and families in high-risk sending areas to reduce children's vulnerability to trafficking; and (ii) improving the capacity of social partners to provide services to rehabilitate and reintegrate child victims of trafficking. The project will provide inputs, good practices and lessons learned that will be up-scaled under the ILO-IPEC **Time-Bound Programme (TBP)**, launched in 2003, to combat the worst forms of child labour, including the trafficking of persons for sexual and labour exploitation. **The Committee asks the Government to provide information on the impact of the ILO-IPEC TICSА Project on combating the sexual and labour exploitation of children under 18 years of age.**

Article 7, paragraph 2. Time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Children on fishing platforms. The ICFTU indicates that forced labour is prohibited by law, but continues to exist in practice. According to the ICFTU, the forced labour of children is widespread and occurs in different activities, including prostitution, drug trafficking, domestic servitude and fishing. The ICFTU accepts that actions taken by the Government and the ILO have helped to reduce the number of children forced to work on remote fishing platforms. It contends, however, that the practice continues to exist.

In reply to the ICFTU's comments, the Government states that, for developing countries such as Indonesia, eliminating or reducing child labour is not an easy task since the problem of working children is closely related to other issues such as poverty, culture and community awareness, including the role of parents. The Government nevertheless points to its efforts and serious intention to eliminate the worst forms of child labour. Hence, a National Action Plan for the Elimination of the Worst Forms of Child Labour was launched, in 2003, with the support of the ILO-IPEC. This National Action Plan (mentioned under *Article 6*) calls for a National Action Programme to be developed to achieve the objectives of the National Action Plan. This National Action Programme is the Time-Bound Measure Programme (**TBP**) framework which is supported by ILO-IPEC and will run from 2003 to 2007. ILO-IPEC support for the National Action Plan will consist of a two-part strategy. The first part will focus on promoting change in policy and the enabling environment. The second part will involve direct-targeted interventions in five sectors identified as priority areas for the elimination of child labour. A total of 31,450 children will be targeted for prevention and withdrawal from exploitative and hazardous work through the provision of educational and non-educational services following direct action from the project. Of this total, 26,350 will be prevented from being engaged in child labour, and 5,100 children will be withdrawn from work. In addition some 7,500 families will benefit from socio-economic opportunities provided by the project, as will many communities in the target area. One of the key objectives of the **TBP** is to develop and implement a programme on the elimination of child labour in the diving and offshore sector.

The Committee notes that the ILO estimates that more than 7,000 children are engaged in deep-sea fishing in north Sumatra ("Support to the Indonesian National Plan of Action and The Development of the Time-Bound Programme for the Elimination of the Worst Forms of Child Labour", page 50). It also notes the indication of the Government representative to the Conference Committee on the Application of Standards at its June 2004 session that a project was launched in 2000 and extended in April 2004. The project's objectives are to prevent the employment of children on fishing platforms, to raise awareness on the danger of working on a fishing platform, and to provide for direct assistance and the removal of children from this type of work. The Committee observes that the project aims at reducing the number of children under 18 working on fishing platforms from 7,000 to 1,000 in five years' time. The Committee also notes the Government's indication that ILO-IPEC technical assistance has contributed to the withdrawal of 344 children from fishing platforms and that 2,111 children were prevented from working in "jermas" since 2000. **The Committee requests the Government to increase its efforts to attain sustainable results in eliminating the forced labour of children on fishing platforms. It also asks the Government to continue to provide information on the impact of the TBP on the elimination of forced labour of children on fishing platforms and the results achieved.**

Article 8. 1. Extradition agreements for trafficking offences. The Committee notes that Indonesia is a member of Interpol which helps cooperation between countries in the different regions especially in the fight against trafficking of children. It also observes that the Government signed in 2003 the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crimes. The Committee further notes that Indonesia has extradition agreements with several countries, including Australia, Hong Kong (China), Malaysia, the Philippines and Thailand. According to Law No. 1/1979, a person engaged in the trafficking of Indonesian persons (in Indonesia or abroad) can be extradited and tried in Indonesia as long as those countries have extradition agreements with Indonesia. Traffickers found in Indonesia who have committed a crime of trafficking in another country could also be extradited to this country where an extradition agreement exists. **The Committee asks the Government to provide a copy of Law No. 1/1979 as well as information on the extraditions that have occurred with regard to child trafficking offences.**

2. *Elimination of poverty.* The Committee notes from the information provided by the ILO's Jakarta Office that Indonesia is finalizing, with the support of the ILO, a Poverty Reduction Strategy Paper (PRSP) which will be funded by the World Bank and the IMF. The PRSP's objectives are to promote growth and reduce poverty. Noting that poverty reduction programmes contribute to breaking the cycle of poverty which is essential for the elimination of the worst forms of child labour, **the Committee asks the Government to supply information on any notable impact of the PRSP towards eliminating the worst forms of child labour, in particular the trafficking of children for sexual and labour exploitation.**

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

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

Malawi

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 1 of the Convention and Part V of the report form. National policy and practical application of the Convention. The Committee previously noted with interest the detailed information on the measures taken by the Government to combat child labour. It nevertheless was seriously concerned by the situation of the considerable number of children under 14 years of age who were compelled to work (according to the Malawi Child Labour Survey of 2002,

more than 1 million children work, of whom approximately half are less than 9 years of age). The Committee encouraged the Government to renew its efforts to progressively improve this situation.

With reference to its previous comments requesting the Government to continue providing detailed information on the development of national policies designed to ensure the effective abolition of child labour and the results attained, the Committee notes the Government's indication that a National Plan of Action for Orphans and Other Vulnerable Children 2005–09 (NPA for OVC) and a Childhood Development Policy were established. More particularly, it notes that, according to the NPA for OVC, around 500,000 children were orphans due to HIV/AIDS in 2004, and more than 1 million children were orphans in Malawi in 2005. Moreover, the number of orphans by different age groups is the following: 110,000 (0–4 years), 340,00 (5–9 years) and 558,000 (10–18 years). The Committee notes that the Government is aware of the consequences of HIV/AIDS on orphans, such as increased child labour and children dropping out from school. It also notes that the Strategic Objective No. 3 of the NPA for OVC is “to protect the most vulnerable children through improved policy and legislation, leadership, efficient coordination at all levels”.

The Committee once again expresses its serious concern at the situation of the considerable number of children under 14 years of age who are compelled to work. It also is seriously concerned by the high number of child orphans in Malawi due to HIV/AIDS and observes that HIV/AIDS has consequences for orphans, for whom there is an increased risk of being engaged in child labour. ***The Committee requests the Government to redouble its efforts to ensure the progressive abolition of child labour. The Committee also requests the Government to provide information on the impact of the NPA for OVC and the Childhood Development Policy towards abolishing child labour, and on the results attained. Finally, the Committee also requests the Government to continue providing information on the application of the Convention in practice, including, for example, statistics on the employment of children and young persons, extracts from the reports of the inspections services and information on the number and nature of the contraventions reported and sanctions imposed.***

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

Niger

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee takes note of the Government's report of May 2005 and the additional information sent in November 2005. It also notes the information supplied in June 2005 at the 93rd Session of the Conference Committee on the Application of Standards and the discussion that ensued. It likewise takes note of the detailed multidisciplinary report by the High-level Fact-finding Mission that took place in Niger from 10 to 20 January 2006 at the request of the Conference Committee.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery and practices similar to slavery. 1. Sale and trafficking of children. In its previous comments, the Committee took note of observations by the International Confederation of Free Trade Unions (ICFTU) alleging trafficking of girls in Niger for domestic work and sexual exploitation, and trafficking of boys for the purpose of economic exploitation. It noted that sections 255 and 258 of the Penal Code punishes whosoever, whether by fraud or violence or without fraud or violence, abducts minors under 18 years of age or causes them to be abducted, or entices, diverts or removes them, or causes them to be enticed, diverted or removed, from where they were placed by the persons to whose authority or guidance they were entrusted. It asked the Government to provide information on the measures taken or envisaged to prohibit and eliminate this worst form of child labour.

The Committee notes the statement made by the Government representative at the Conference Committee in June 2005 that Niger is not a country where children are sold or trafficked, such practices not having been brought to the knowledge of the public authorities. It also notes that the Government repeats this statement in the additional information sent in November 2005. The Committee observes, however, that in its report, the High-level Mission states that according to information it has obtained, Niger is certainly a *transit country* since its geographical location makes it a hub for trade between North Africa and sub-Saharan Africa. The Committee also observes that Niger's geographical location (i.e. the fact that it shares nearly 5,700 kilometres of land borders with seven States – Algeria, Benin, Burkina Faso, Chad, Libyan Arab Republic, Mali and Nigeria – does indeed place the country at the heart of the region's migratory flows and exposes it to the risk of trafficking, particularly child trafficking. Furthermore, Niger is the more exposed to the phenomenon because most of the countries with which it shares a land border are themselves affected by trafficking. The Committee notes that, according to information gathered by the High-level Mission, Niger is both a *country of origin* and a *country of destination* for human trafficking, including the trafficking of children. The mission report also indicates that the trafficking of women and children between the countries of the subregion has increasingly involved Niger, and that the trafficking networks are fed, especially in Niamey, by young persons recruited mainly in Nigeria, Togo, Benin and Ghana, with the promise of a bright professional future, to carry out tasks which are traditionally regarded as demeaning in Niger (domestic work) or which are prohibited on religious grounds (work in bars or restaurants, etc.).

The Committee notes that, in its report, the mission recommends completing the legal framework allowing child labour, particularly its worst forms, to be prevented. The Committee points out in this connection that, although sections 255 and 258 of the Penal Code punish the abduction of children under the age of 18 years of age, Niger has no

specific legislation on human trafficking. It notes that the mission indicates in its report that Niger's Association for Human Rights (ANDDH) has set up, in collaboration with UNICEF, a programme to combat human trafficking in Niger. As part of the programme, the ANDDH has drafted a Bill for the prevention, repression and punishment of trafficking in Niger. In its conclusions, the mission proposes that the Bill should undergo critical examination by the National Committee for the Protection of Human Rights and Fundamental Freedoms (CNDHLLF), which has the authority to submit bills to the Government on human rights matters. ***The Committee therefore asks the Government to take the necessary steps to ensure that the Bill to prevent, repress and punish trafficking in Niger, is adopted as soon as possible. It also requests the Government to provide information on any progress made in this matter.***

2. *Forced or compulsory labour. Begging.* The Committee previously took note of observations by the ICFTU alleging that children are forced to beg in West Africa, including Niger. For economic or religious reasons, many families entrust their children from the age of five or six to a spiritual guide (*marabout*), with whom they live until they are 15 or 16 years old. During that time they are entirely in the guide's charge. He teaches them religion and in return requires them to carry out certain tasks, including begging. In its previous comments, the Committee noted that section 179 of the Labour Code punishes begging and that section 181 of the Code punishes the parents of minors under 18 years of age who habitually engage in begging and anyone who invites them to beg or wittingly benefits from the begging. The Committee, like the United Nations Committee on the Rights of the Child, expressed concern at the vulnerability of children who beg in the streets. It requested the Government to provide information on the measures taken to improve the situation of child beggars and on the application of sections 179 and 181 of the Penal Code.

The Committee notes that, in June 2005, the Government representative made a point of reminding the Conference Committee that begging was a cultural and educational practice aimed at developing humility and compassion in adults. She indicated, however, that the competent departments were reflecting on appropriate measures to respond to the risks deriving from this practice because of poverty. In its conclusions of June 2005, the Conference Committee shared the concern of the Committee of Experts about the vulnerability of children who beg in the streets and asked the Government to indicate effective and time-bound measures for withdrawing street children under 18 years of age from begging. The Committee notes that, from the interviews held by the High-level Mission, it emerges that there are three forms of begging in Niger: *conventional begging*, *educational begging* and *begging that uses children for purely economic ends*. *Conventional begging* is the form practised by indigent people. *Educational begging* is the form practised in Niger in accordance with the Muslim religion as a means of learning humility, for the person practising it, and compassion, for the alms giver. Lastly, *begging that uses children for purely economic ends* uses children as a source of business. The Committee notes that, according to the mission report, the existence of this third form of begging was acknowledged by those interviewed, including the Government. The Committee points out that, because this form of begging has its roots in cultural and religious practice, few are shocked to see children exploited in this way. However, in this form of begging children are the more vulnerable, as their parents, although concerned for the children's religious education, are unable to provide for their subsistence. The children are therefore left entirely in the charge of the *marabouts*.

The Committee is seriously concerned at the use by certain *marabouts* of children *for purely economic ends*, particularly as it would appear from the information gathered by the mission that this form of begging is very much on the increase. The Committee is also concerned at the mission's finding that begging among *talib* children is closely linked to child trafficking in that it is certain *marabouts* or teachers of the Koran who are mainly at the origin of this kind of exploitation. The Committee also notes that the Government has recognized that this form of begging is on the increase. It notes in this context that in his 2006 goodwill address to the nation, the Prime Minister of Niger referred to the scourge of begging. ***The Committee requests the Government to step up its efforts to take the necessary steps to enforce the national legislation on begging and to punish marabouts who use children for purely economic ends. It also requests the Government to indicate effective and time-bound measures taken to protect children against forced labour and ensure their rehabilitation and social integration.***

Article 3(d). Hazardous work. Children working in mines and quarries. In its previous comments, the Committee took note of information sent by the ICFTU to the effect that a study conducted by the ILO in 1999 on child labour in small-scale mining, covering four types of traditional mines (trona mining in the Boboye region, salt in Tounouga, gypsum in Madaoua, and gold in Liptako-Gourma), showed that child labour is widespread in Niger, principally in the informal economy, and that work in small-scale mines is the most hazardous of all activities in the informal sector. The Committee noted that section 152 of Decree No. 67-126/MFP/T of 7 September 1967 provides that employers may not assign children to underground work in mines. It asked the Government to redouble its efforts to ensure that the legislation protecting children against underground work in mines was effectively applied.

The Committee notes that, in its conclusions of June 2005, the Conference Committee shared the Committee of Experts' concern at the vulnerability of children who carry out hazardous work in mines and quarries. The Conference Committee noted that the Government of Niger expressed its resolve to pursue efforts to eradicate such situations with technical assistance and cooperation from the ILO. The Committee notes from the information gathered by the mission that hazardous work by children, particularly in mines and quarries, does exist in "informal" locations. The Committee notes from the Government's report that the Government informed the mission that, when parents work at informal sites, they are often accompanied by children who are too young to stay at home alone and that, in some cases, the children carry out small tasks for their parents. The Committee notes, however, that according to various interviews carried out by

the mission in Niger, the children do more than simply accompany their parents. The mission reports that they intervene in the production chain, whether in gypsum mines or salt quarries, sometimes performing small tasks to facilitate their parents' work or in some cases tasks that are physically hazardous, eight hours a day, every day of the week, running the risk of accident or disease.

The Committee points out in this connection that there is a difference between the child labour prohibited by ILO Conventions and the small tasks that children may carry out in the family environment which may be regarded as playing a major role in the child's socialization. The child labour prohibited by the ILO Conventions refers to jobs done by children, which in fact mask a form of bondage opening the way for abuse of all kinds, and in particular preventing children from studying and exposing them to situations that endanger their health and development. Although the problem is not as widespread as the one mentioned by the ICFTU, the Committee is concerned at the use of child labour in hazardous work, particularly mines and quarries in the informal sector. It observes that Niger, like many other developing countries, is affected by child labour because of the poverty of the population and the expansion of the informal economy to the detriment of the formal sector. ***The Committee requests the Government to take the necessary steps to ensure that the national legislation to protect children against underground work in mines also applies to informal mining and quarrying.***

Article 5. Monitoring mechanisms. In its observation of 2003 on the Labour Inspection Convention, 1947 (No. 81), the Committee noted that, like other administrative bodies of the State, the labour inspection services were affected by a lack of resources and the severe restrictions that had to be imposed on recruitment in order to meet the objective of controlling the wage bill. According to the Government, in 2004 the labour inspection service was to be allocated a larger share of the state budget allowing it to be improved. The Committee asked the Government to provide information on the measures taken or envisaged to step up the resources available to labour inspectors. The Committee notes from the information supplied by the Government that the planned increase in the budgetary allocation for the labour inspection services for 2004 did not take place. The Committee notes in this connection that, according to the mission report, site visits revealed that the labour inspectorate, which plays a key role in combating child labour and forced labour, lacks both the human and the material resources needed to perform its duties. The mission recommended a labour inspection audit to ascertain the exact nature and extent of the inspectorate's needs. ***The Committee refers the Government to its observation under the Labour Inspection Convention, 1947 (No. 81), and hopes that the Government will take the necessary steps to implement the mission's recommendation. The Government is asked to send information on this matter.***

Article 7, paragraph 1. Sanctions. In its previous comments, the Committee asked the Government to send information on sanctions applied for the sale and trafficking of persons, begging and the use of children in hazardous work, particularly in mines and quarries. The Committee notes that, in June 2005, the Government representative informed the Conference Committee that no complaints having been filed in the courts, there had been no occasion to apply penalties. She further indicated that, notwithstanding government efforts in the legal sphere, the economic situation did not always allow standards to be applied effectively. The Committee notes that, in the additional information sent in November 2005, the Government repeats that no complaints have been lodged. However, the Committee notes from the mission report that it is difficult to apply the law on forced labour and the exploitation of children for economic and sexual ends. It reminds the Government that, according to *Article 7, paragraph 1*, of the Convention, the Government is required to take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention, including the provision and application of penal sanctions or, as appropriate, other sanctions. ***While noting that the economic situation does not always allow standards to be applied effectively, the Committee requests the Government to take the necessary steps to ensure the effective implementation and enforcement of penal sanctions that apply by law to the sale and trafficking of persons, begging and the use of children in hazardous work, particularly in mines and quarries. It also requests the Government to provide information on the application of sanctions in practice.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. 1. Improving the working of the education system. In its previous comments, the Committee noted that, according to the ICFTU, although compulsory education lasts six years, only 32 per cent of children of primary school age go to school. Furthermore, most girls are kept at home to work and are married very young. The literacy rate is 7 per cent for girls and 21 per cent for boys. The ICFTU provided a table showing that only 30.3 per cent of children between the ages of five and 12 years attend school. The Committee noted that, according to the Government, basic education is free in Niger and that there are vocational training centres in the country. It also noted the Government's indication that for some years it had been focusing on the enrolment of girls and that several measures were under way for this group of the population. It likewise noted that a Ten-Year Education Plan had been adopted for the period from 2002 to 2012.

The Committee notes that, in her statement to the Conference Committee in June 2005, the Government representative said that the Government was still engaged in a major effort to develop schooling for children, but it was hampered by the country's limited financial resources and strong demographic growth. She further indicated that the Government wanted to eradicate illiteracy. The Committee notes from the mission's report that underlying the problem of child labour is the problem of children's access to education and training that meets the needs of the labour market. Moreover, despite the Government's endeavours in the area of education and its attempts to attain the objective of providing all children, by 2015, with the means to complete a full primary education cycle, the situation is still

unsatisfactory. The mission also indicates that parents hesitate to send their children to school when they see that such education affords no guarantee of a job, whereas the Muslim religious schools train children to be good Muslims or even teachers of the Koran, which explains why such schools are on the increase in Niger. The Committee further notes that, according to the mission report, the education dispensed by Koran teachers leads to no diploma, which limits the children's potential for entering the labour market in the future.

The Committee is deeply concerned at the low school enrolment rate and the extent of illiteracy. It notes the mission's recommendation to the effect that the working of the education system needs to be improved to ensure access for all to education of a high standard. The Committee also notes that, in its report, the mission mentions that the Government is thinking about the possibility of integrating the Muslim religious schools into the national education system which would allow better supervision both of teachers and of the education provided. The Committee points out that education is one of the most effective means of combating child labour, particularly its worst forms. ***It therefore requests the Government to take the necessary steps to implement the mission's recommendation and to improve the working of the education system in order to ensure that girls and boys have access to education of a high quality. Moreover, in view of the information that the mission gathered on children who are forced to beg, the Committee requests the Government to take the necessary steps to integrate the Muslim religious schools into the national education system.***

2. *Informing and educating the public about the problems of child labour and forced labour.* The Committee notes that, in its report, the mission recommends measures to raise awareness and educate the public about the problems of child labour and forced labour, taking account of the gender dimension, because they affect the two sexes differently and because experience has shown that if women (mothers) are made aware, the impact on development is greater. The Committee also notes the mission's suggestion that specific measures to raise awareness among teachers of the Koran and parents should be undertaken to prevent the instrumentalization of begging by certain *marabouts*. The Committee notes in this connection the information sent by the Government to the effect that, in cooperation with ILO-IPEC, PAMODEC, civil society (NGOs and associations) and leaders of public opinion (traditional chiefs and religious chiefs), it has conducted campaigns to raise awareness of the dangers of child labour for the future of families, the population and the country as a whole. The Committee notes that, according to the mission's report, society in Niger is still very traditionalist. Much therefore remains to be done in terms of alerting the public to the problems of child labour and its worst forms. ***The Committee therefore encourages the Government to pursue its efforts to inform people of the dangers of child labour and its worst forms, by cooperating with the various government agencies, civil society in general and traditional chiefs. It also requests it to provide information on measures taken in this regard.***

3. *Project in artisanal gold mines in West Africa.* The Committee notes with interest that the Government is taking part in the ILO-IPEC project to prevent and eliminate child labour in artisanal gold mines in West Africa, in which the other participants are Burkina Faso and Mali. It notes from information available at the Office, that more than 1,500 children will be prevented from being engaged in artisanal gold mines. ***The Committee requests the Government to provide information on the number of children who are actually prevented from being engaged in this worst form of child labour following implementation of the abovementioned project in Niger.***

Clause (b). Necessary direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. The Committee notes that, as part of the project to eliminate child labour from artisanal gold mines in West Africa, 1,500 children are to be withdrawn from these mines. ***The Committee requests the Government to provide information on the number of children actually removed from artisanal gold mines following implementation of the project in Niger. It also requests the Government to provide information on the measures taken to ensure the rehabilitation and social integration of these children.***

Article 8. Cooperation. 1. *Regional and international cooperation.* The Committee notes with interest that the Government is already cooperating with ILO-IPEC and other specialized agencies of the United Nations and with some governments. It further notes that, on 27 July 2005, the Government signed a multilateral cooperation agreement to combat child trafficking in West Africa, the other signatories of which are: Benin, Burkina Faso, Côte d'Ivoire, Guinea, Liberia, Mali, Nigeria and Togo. The Committee is of the view that, in order to combat the worst forms of child labour effectively, particularly the sale and trafficking of children, actions should be coordinated at a subregional level. ***It therefore asks the Government to provide information on the measures taken under the abovementioned multilateral cooperation agreement to cooperate with the other signatories with which Niger shares a border. Moreover, taking into account the desire expressed by the Government that ILO technical assistance and international cooperation be strengthened, the Committee calls on the ILO and member States to furnish such assistance, in conformity with Article 8 of the Convention.***

2. *Poverty reduction.* The Committee notes the statement made by the Government representative to the Conference Committee in June 2005 that Niger has a poverty reduction strategy. It notes that, in its recommendations, the mission indicated that in order to combat poverty, the creation of decent and productive jobs must be at the core of any poverty reduction policy. ***The Committee therefore asks the Government to provide information on its poverty reduction strategy, particularly the effective reduction of poverty among children who are victims of the worst forms of child labour, particularly sale and trafficking, begging that uses children for purely economic ends and hazardous work in mines and quarries.***

Parts IV and V of the report form. Application of the Convention in practice. In its previous comments, the Committee had noted the Government's statement that child labour is a development problem, poverty being its main cause, and that the remuneration obtained by children is an important contribution to the income of some poor families. Furthermore, child labour concerned the informal sector above all. The Committee had asked the Government to provide information on the application of the Convention in practice.

The Committee notes that, in its report, the mission refers to a lack of reliable data for quantifying accurately the extent and characteristics of child labour problems. The mission accordingly suggests that surveys should be carried out objectively and scientifically with the involvement of *all* concerned. According to information available at the Office, a diagnostic survey is under way in the urban areas of Maradi and Niamey and the rural areas of Kollo and Boboye, as is an exploratory study on the work of girls in mines and quarries. ***The Committee requests the Government to provide information on the results of these studies and on the way in which the Convention is applied in practice, including statistical data and information on the nature, extent and trends of the worst forms of child labour, the number of children protected by the measures giving effect to the Convention, the number and nature of offences reported, investigations conducted, prosecutions, convictions and penalties, as soon as such information is available. To the extent possible, the information should be disaggregated by sex.***

The Committee raises other matters in a request addressed directly to the Government.

Oman

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the information supplied in the Government's report. It also notes the communication of the International Confederation of Free Trade Unions (ICFTU) dated 7 September 2005 and the reply of the Government thereto dated 20 March 2006. ***It requests the Government to supply further information on the following points.***

Article 3 of the Convention. Worst forms of child labour. Clause (d). Hazardous work. In its previous comments, the Committee had expressed concern for the health and safety of children under 18 years of age involved in camel racing and subject to exploitation. It had requested the Government to provide information on the measures taken or envisaged to ensure that camel jockeys under 18 years of age do not perform their work under circumstances that are detrimental to their health and safety.

The Committee notes the ICFTU's allegation that it is reported that certain camel owners from the United Arab Emirates (UAE, especially from al-Ain) hide young child camel jockeys in Oman (especially in al-Baraimmi), because the UAE have prohibited the use of jockeys under the age of 16 years. The ICFTU adds that camel owners form part of the local elite and enjoy impunity.

The Committee notes the Government's statement that the Sultanate of Oman does not allow any work or activities conducive to the worst forms of child labour. Furthermore, the Omani Labour Code does not allow for the employment of children under 18 years of age in hazardous work. The Government adds that it verified that there are no camel jockeys being hidden by UAE camel owners in the Al Buraimmi area, or in any other region of the Sultanate of Oman.

The Committee notes the information contained in the Government's report that camel races are a traditional and popular national sport from ancient times practised by adults and children just like swimming, football and wrestling and that only Omani children ride as camel jockeys. Moreover, they are not hired workers riding camels in return for a wage and accordingly the jockeys are not child labourers. In this regard, the Committee recalls that the prohibition on hazardous work applies to all forms of employment, not only to those under formal contracts of employment.

The Committee also notes the Government's statement that the "Regulations on holding and organizing camel races in the Sultanate of Oman", that were issued by the Oman Equestrian and Camel Federation on 7 August 2005, state that no jockey under 18 years of age will be allowed to take part in camel races in the Sultanate of Oman. However, the Committee notes that section 2 of these regulations states that the minimum age of *18 years* for taking part in camel races will be reached progressively starting from a minimum age of *14 years*, over four years starting from the 2005–06 season. The Committee expresses its concern at the continued use of children under *18 years* of age as camel jockeys. It considers that camel jockeying, by its nature and the extremely hazardous conditions in which it is performed, is likely to harm the health and safety of child jockeys.

In this regard, the Committee notes that the Government has taken a number of wide-ranging measures aimed at protecting the health and safety of camel jockeys under 18 years. It notes the Government's information that strict safety and security measures for the competitors are applied, such as wearing helmets, special belts to prevent falls and wind-proof clothing. Moreover, each competitor is equipped with communication equipment tied to his chest while the racetrack is ringed with sand barriers to stop the camels from bolting off the tracks. The Ministry of Sport, now supervising the sport of camel jockeying, is currently setting out competition rules for races. The Committee notes the Government's statement that, with regard to camel jockeys' training, this is not for extended periods, as most of the competitors are camel drivers in their daily lives, being Bedouins whose parents are camel breeders. Training sessions do not exceed one or two weeks before the race and do not last more than five minutes at a time and five rides a day, which means that the total training period does not exceed 40 minutes a day. In this way, the competitors' schooling is not

affected, because such exercises are part of their daily life and most of the races are organized during official holidays and after school hours.

The Committee takes note of the comprehensive information provided by the Government and welcomes the adoption of measures aimed at protecting the health and safety of camel jockeys. Nevertheless, it considers that camel racing is inherently dangerous to the health and safety of children. *Therefore, the Committee requests the Government to ensure that the protective measures that are in place and which are aimed at protecting the health and safety of camel jockeys under 18 years of age are strictly enforced, pending the progressive increase in the minimum age to 18 for camel racing. In this regard, it urges the Government to ensure that unannounced inspections are carried out by the labour inspectorate to ensure that children between 14 and 18 years of age do not perform their work under circumstances that are detrimental to their health and safety. It requests the Government to continue providing information on progress made in raising the age to participate in camel jockeying to 18 years. Finally, the Committee hopes that the Government will follow in Qatar's footsteps in respect of the prohibition and elimination of the use of children under 18 years for camel racing as well as the use of robot jockeys for the purpose of camel racing.*

Article 7, paragraph 1. Penalties. The Committee had previously asked the Government to provide information on the measures taken to ensure that persons who exploit children in camel racing are prosecuted and that sufficiently effective and dissuasive penalties are imposed. It notes that Decision No. 30-2002 of 8 August 2005 of the Oman Equestrian and Camel Federation states that any person who violates the "Regulations on holding and organising camel races in the Sultanate of Oman" shall be convicted by the Court. *The Committee requests the Government to indicate the applicable penalties under Decision No. 30-2002 of 8 August 2005.*

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

Paraguay

Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79) (ratification: 1966)

The Committee notes the Government's report. It notes with interest the adoption of Act No. 1680 of 30 May 2001 incorporating the Children's and Young Persons' Code (hereafter Children's and Young Persons' Code) and Decree No. 4951 of 22 March 2005 setting out a list of 19 types of dangerous work prohibited for children under 18 years of age (hereafter Decree No. 4951 of 22 March 2005).

Article 3 of the Convention. Period during which it is forbidden to work at night. In its previous comments, the Committee noted that under section 122 of Act No. 213 issuing the Labour Code (hereafter Labour Code), as amended by Act No. 496 of 22 August 1995, young persons between 15 and 18 years of age shall not be employed at night for a period of ten hours including the interval between 8 p.m. and 6 a.m. The Committee also noted that section 189 of Act No. 903 of 18 December 1981 issuing the Young Persons' Code (hereafter Young Persons' Code) prohibits young persons under 18 years of age from performing work at night between 8 p.m. and 5 a.m., namely a period of nine hours. The Committee noted at that time that these two provisions were not in compliance with *Article 3* of the Convention which prohibits night work for young people between 14 and 18 years of age for a period of 12 consecutive hours, including the interval between 10 p.m. to 6 a.m. The Committee notes with interest that section 257 of the Children's and Young Persons' Code of 2001 repeals these two provisions.

In addition, the Committee notes with satisfaction that, under section 2 of Decree No. 4951 of 22 March 2005, night work during the period between 7 p.m. and 7 a.m. is classed as dangerous and, under section 3 of the Decree, is prohibited for children under 18 years of age. The Committee notes, however, that section 58 of the Children's and Young Persons' Code regulates night work for young persons by prohibiting such work for persons aged between 14 and 18 years during a period of ten hours, including the interval between 8 p.m. and 6 a.m. *Hence, in order to avoid any legal ambiguity, the Committee deems it desirable to align section 58 of the Children's and Young Persons' Code so as to bring it into conformity with Decree No. 4951 of 22 March 2005 and with the Convention, by modifying the period during which young persons must not work at night to increase it from ten to 12 hours and requests the Government to take the necessary measures to this end.*

The Committee refers also to the comments made on application of Convention No. 90.

Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (ratification: 1966)

The Committee notes the Government's report. It notes with interest the adoption of Act No. 1680 of 30 May 2001 issuing the Children's and Young Persons' Code (hereafter Children's and Young Persons' Code) and of Decree No. 4951 of 22 March 2005 which lays down a list of 19 types of dangerous work prohibited for young persons under 18 years of age (hereafter Decree No. 4951 of 22 March 2005).

Article 2 of the Convention. Period during which night work is prohibited. In its previous comments the Committee noted that, under section 122 of Act No. 213 issuing the Labour Code (hereinafter Labour Code), as amended by Act No. 496 of 22 August 1995, young people between the ages of 15 and 18 years shall not be employed at night for a period of

ten hours including the interval between 8 p.m. and 6 a.m. The Committee also noted that section 189 of Act No. 903 of 18 December 1981 issuing the Minors' Code (hereinafter Minors' Code) prohibits young people under 18 years of age from carrying out night work between 8 p.m. and 5 a.m., namely a period of nine hours. The Committee noted that these two provisions are not in conformity with *Article 2* of the Convention which provides that the term "night" signifies a period of at least 12 consecutive hours between 10 p.m. and 6 a.m. The Committee notes with interest that section 257 of the Children's and Young Persons' Code repeals these two provisions.

In addition, the Committee notes with satisfaction that, under section 2 of Decree No. 4951 of 22 March 2005, night work for the period between 7 p.m. and 7 a.m. is classed as dangerous and that, under section 3 of the Decree, it is prohibited for young persons under 18 years of age. The Committee notes, however, that section 58 of the Children's and Young Persons' Code regulates night work for children by prohibiting work for children between the ages of 14 and 18 years for a period of ten consecutive hours including the interval between 8 p.m. and 6 a.m. ***In order to avoid any legal ambiguity, the Committee considers it desirable that section 58 of the Children's and Young Persons' Code should be brought into line with Decree No. 4951 of 22 March 2005 and with the Convention by increasing from ten to 12 hours the period during which children must not work at night and the Committee requests the Government to take the necessary measures in this regard.***

The Committee refers to the comments made on the application of Convention No. 79.

Qatar

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee takes note of the Government's report. It also takes note of the detailed discussion which took place at the Conference Committee on the Application of Standards of the 93rd Session of the International Labour Conference in June 2005. Moreover, it notes the report of the technical advisory mission undertaken in Qatar in March 2006 (hereinafter mission report). Finally, the Committee notes with interest that Qatar ratified the Minimum Age Convention, 1973 (No. 138), on 3 January 2006.

Article 3 of the Convention. Worst forms of child labour. Clause (a). Slavery and practices similar to slavery. Sale and trafficking of children for camel racing. In its previous comments, the Committee noted that, according to the report of the Special Rapporteur of the United Nations Commission on Human Rights (E/CN.4/2001/73/Add.2, 6 February 2001, paragraph 56), there were reported cases of children trafficked to the Middle East to work as camel jockeys. It had invited the Government to redouble its efforts to improve the situation and to take, without delay, the necessary measures to ensure that no children under 18 years are trafficked to Qatar for sexual or labour exploitation, including camel racing.

The Committee notes the information contained in the Government's report that the High Council for Family Affairs (HCFA) participated in a committee to examine a strategy to combat the trafficking of persons. This committee submitted its recommendations to the Council of Ministers, including the provision of a set of measures prohibiting children who are under 18 years from participating in camel races. The HCFA also participated in formulating the draft Bill on prohibiting the importation, employment, training and participation of children in camel racing. That Bill was adopted as Law No. 22 of May 2005.

The Committee notes with satisfaction the Government's information that Law No. 22 of 2005 on the importation, employment, training and participation of children in camel racing has been promulgated. The Committee notes that, by virtue of section 1 of this Law, a "child" is considered a person under 18 years of age. Section 2 stipulates that it is prohibited to import, employ, train or involve children in camel racing. The Committee notes the Government's statement that besides enacting Law No. 22 of 2005, it also adopted, without delay, a set of practical and effective measures to ensure the effective application of the Convention.

The Committee notes with interest the information contained in the mission report to the effect that there is a clear political will on the part of the Government to deal with and resolve the issue of trafficking of children for their use in camel racing. In this regard, the mission report highlights measures taken on three fronts by the Government with a view to eradicating the problem: (i) legislative measures; (ii) practical measures; and (iii) rehabilitation measures.

Pursuant to the adoption of Law No. 22 of 2005, which prohibits the employment, training and use of children in camel races, the Government launched a number of sensitization measures aimed at creating awareness of this Law. These measures include: recourse to the media; the strengthening of the labour inspection; and the organization of various meetings with the Camel Racing Federation. Moreover, unannounced labour inspections have been carried out to ensure that children are not used for this purpose. The Government also adopted a number of practical measures aimed at effectively ensuring that camel owners do not use children under 18 years for camel racing. In particular, the Government started in 2004 to buy robots from a Swiss company to replace camel jockeys. After some initial problems with such robots, local production of robots that responded more adequately to the needs of camel owners in Qatar commenced. This proved to be a huge success, since the robots manufactured were cheap and they were very light (much lighter than a child). The more recent robots manufactured weighed 3.7 kilograms. The production of robot jockeys was developed with the financial help of the Government, which also paid for the establishment of the robot factory, the Raqbi Centre, next to the camel racing track. Moreover, it made more economic sense for camel owners to use robots rather than children. In

addition, the use of robots as camel jockeys has become so popular that even camel owners in other Gulf Council countries, such as the United Arab Emirates, Kuwait and Oman are buying them.

Finally, the Committee notes from the mission report that the Government has adopted a number of rehabilitation measures aimed at assisting former child camel jockeys and providing them with medical treatment for poor health or injuries sustained before returning them to their country, i.e. Sudan. Furthermore, the Government, along with charitable organizations in Qatar, has provided assistance to these children through the establishment of free medical and educational facilities for them in Sudan.

The Committee notes that, prior to the adoption of Law No. 22 of May 2005 there were between 200 and 300 children from 6 to 13 years of age (all from Sudan) used in camel racing and exposed to serious injuries. The Committee notes with satisfaction that since the promulgation of Law No. 22 of 2005 there has been no recourse by camel owners to using children as camel jockeys.

The Committee welcomes the prompt and effective measures taken by the Government of Qatar in order to prohibit and eliminate the trafficking of children to Qatar for their use in camel racing. It considers the developments in Qatar concerning the use of robot camel jockeys to be a case of best practice. The Committee accordingly hopes that all the countries in the region that have ratified Convention No. 182 will follow Qatar's footsteps in respect of the prohibition and elimination of the use of children under 18 years for camel racing as well as the use of robot jockeys for the purpose of camel racing.

Clause (d). Hazardous work. In its previous comments, the Committee had noted that, according to sections 1 and 87 of the Labour Code of 2004, Qatari juveniles under 18 years of age shall not be employed in work which, by its nature and the circumstances in which it is carried out, may cause damage to their health, safety or morals. It had observed that section 23 of the Labour Law states that a non-Qatari worker, in order to work, shall obtain the approval of the Department of Labour as well as a work permit. It had asked the Government to provide information on the measures taken or envisaged to ensure that non-Qatari camel jockeys under 18 years do not perform their work under circumstances that are detrimental to their health, safety or morals.

The Committee notes the information contained in the Government's report that the participation of children under 18 years is totally prohibited in camel jockeying, whether they are Qatari or non-Qatari and under any circumstances. The Committee also notes that, according to the mission report, the Deputy Minister of Civil Service Affairs and Housing acknowledged that, prior to the entry into force of Law No. 22 of 2005, migrant workers did send their children for camel jockeying. Now, however, the labour inspection services have been considerably strengthened with labour inspectors carrying out more frequent unannounced visits to verify that children are not used for this purpose. The strengthening of the labour inspection services coupled with free and compulsory schooling for all children including non-Qatari children ensure that children can no longer be sent for camel racing by their parents.

Article 7, paragraph 1. Penalties. The Committee had previously noted that section 193 of the Penal Code states that a person who imports, exports, sells, or takes possession of a person or disposes of that person, as he/she was in his possession, is liable to ten years' imprisonment. It had asked the Government to provide measures on the penalties imposed in practice. The Committee notes the Government's information that the Penal Code was amended by the promulgation of Act No. 11 of 2004. No sentences have been rendered to date by courts in this regard.

The Committee notes with satisfaction that section 4 of Law No. 22 of 2005 on the prohibition of importing, employing, training and the participation of children in camel racing, carries penalties of imprisonment for a minimum of three years and a maximum of ten years, and the payment of a minimum fine of 50,000 rials and a maximum fine of 200,000 rials for anyone found violating this Law. Furthermore, the labour inspectorate is responsible for supervising the Law's application and cooperates with the public prosecutor in order to ensure strict implementation and enforcement of this legislation.

The Committee notes that, according to the mission report, the Deputy Minister of Civil Service stated that, pursuant to the promulgation of Law No. 22 of 2005, the sanctions had proved to be sufficiently effective and dissuasive because children were no longer used for camel racing. Furthermore, in addition to the penalties provided by the Law, camel owners stood to lose membership in the Camel Racing Federation if they were found to be violating the new law. The Deputy Minister of Justice also reported that he had no information on any violations of Law No. 22 of May 2005 since its entry into force.

Article 8. International cooperation. The Committee had previously asked the Government to provide information on any measures of cooperation passed between Qatar and countries of origin of child victims of trafficking. It notes the Government's information that sections 407–443 of Book 5 of Criminal Procedures Act No. 23 of 2004 cover most of the various aspects of international judicial cooperation with foreign and international judicial bodies in the criminal field.

It also notes the information contained in the mission report that, pursuant to the adoption of Law No. 22 of 2005, all the children who had taken part in camel racing returned to Sudan with their families. The National Human Rights Committee had asked the Government to rehabilitate these children so as to ensure they were in better health before they went back to Sudan. In this regard, the Foreign Ministry along with civil society in Qatar were cooperating with the Sudanese Government in order to establish schools and medical centres for these children in Sudan.

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

Russian Federation

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

The Committee takes note of the Government's first report and of the communication of the International Confederation of Free Trade Unions (ICFTU) concerning the problem of trafficking in persons for the purpose of sexual and labour exploitation. Referring to the comments made by the Committee under the Forced Labour Convention, 1930 (No. 29), in so far as *Article 3(a) of Convention No. 182* provides that the worst forms of child labour include "all forms of slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour", the Committee is of the view that the issue of the sale and trafficking of children can be examined more specifically under this Convention. ***The Committee requests the Government to supply further information on the following points.***

Article 3. Worst forms of child labour. Clause (a). Sale and trafficking of children. The Committee notes that, according to the communication of the ICFTU, thousands of persons are trafficked from the Russian Federation to other countries, including Canada, China, Germany, Israel, Italy, Japan, Spain, Thailand and the United States. Internal trafficking within the Russian Federation is also taking place; women are generally forced to work as prostitutes while men are trafficked into agricultural or construction work. There are said to be confirmed cases of children being trafficked for sexual exploitation. The Committee further notes that the Committee on the Rights of the Child in its concluding observations (CRC/C/15/Add.274 of 30 September 2005, paragraph 80) while welcoming the recent introduction of norms prohibiting the trafficking of human beings in the Criminal Code, was concerned that not enough was being done to effectively implement these provisions. The Committee on the Rights of the Child also expressed its concern that protection measures for victims of trafficking of human beings were not fully in place and that reported acts of complicity between traffickers and state officials were not being fully investigated and punished.

The Committee observes that section 127.1 of the Criminal Code prohibits the sale and trafficking in human beings, defined as the purchase and sale of persons or their recruitment, transport, transfer, hiding or receipt, if committed for the purposes of exploitation. Subsection (2) of section 127.1 provides for a higher penalty when this offence is committed in relation to a known minor (defined in section 87 as a person aged 14 to 18 years). The Committee also notes that subsection (2) of section 240 of the Criminal Code prohibits transporting another person across the state border of the Russian Federation for the purposes of engaging that person into prostitution or illegal detention abroad. A higher penalty is provided when this offence is committed against a minor.

The Committee notes the Government's information that during the period 2003–05, work has been under way on a draft Law on Combating Trafficking in Human Beings which is based on the Palermo Protocol and provides for appropriate measures to ensure legal protection and social rehabilitation for victims of trafficking. The Committee also notes the Government's information that in 2002, ten cases of criminal proceedings for trafficking in minors were instituted, and 21 in 2003. In 2004, three cases of trafficking in minors were uncovered, of which two involved children aged between 1 and 3 years, and the other involved a child of 16 years.

The Committee consequently notes that, although the trafficking of children for labour or sexual exploitation is prohibited by law, it remains an issue of concern in practice. It recalls that, by virtue of *Article 3(a)* of the Convention, the sale and trafficking of children is considered to be one of the worst forms of child labour and is therefore prohibited for children under 18 years of age. ***The Committee requests the Government to take the necessary measures as a matter of urgency to ensure that persons who traffic in children for labour or sexual exploitation are in practice prosecuted and that sufficiently effective and dissuasive penalties are imposed. In this regard, it requests the Government to continue to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied for violations of the legal prohibitions on the sale and trafficking of children. The Committee also asks the Government to inform it on the progress in the elaboration of the draft Law on Combating Trafficking in Human Beings and to provide a copy thereof once it has been adopted.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. The Committee notes the Government's information that efforts are being made to improve collaboration between the media and non-governmental organizations in combating cross-border trafficking in women and children. Thus, it is becoming increasingly common for the major television networks to broadcast programmes on trafficking in women and children, shedding light on this problem and explaining the work done by internal affairs officials to identify and prosecute traffickers in accordance with the new provisions of the Criminal Code. It also notes that in 2004, the organization "Independent voluntary assistance centre for victims of sexual assault" ("Sisters") helped to conduct a series of one-day training sessions on the theme of "Making general use of Russian and international experience in combating trafficking in persons". The Committee further observes that the association of women's crisis centres "Let's stop violence!" has opened a national information line on the problem of preventing trafficking in persons. Its purpose is to provide information on Russian and international organizations that provide assistance to victims of trafficking in the Russian Federation and abroad, Russian embassies and consulates abroad, and personal security plans for persons travelling abroad. ***The Committee asks the Government to provide information on the impact of the above measures on preventing the sale and trafficking of children.***

Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. The Committee notes the Government's detailed information on a system of social

institutions which provide for the rehabilitation and social integration of children engaged in the worst forms of child labour. In particular, it notes that, compared to 2003, the number of establishments functioning within the social protection bodies of the constituent units of the Russian Federation and local self-government bodies increased by 144, reaching 3,373 by 1 January 2005 (the corresponding figures were 3,059 in 2002 and 3,229 in 2003). It also notes that social rehabilitation centres for minors, centres to provide social assistance to families and children, social shelters for children and adolescents, centres for children left without parental care, telephone hotlines for emergency psychological assistance and other measures are being actively developed. The development of social rehabilitation centres for minors was stepped up in 2004 (with the addition of 163 new centres compared to the year 2002). The Committee also notes the Government's information that in recent years, the Russian law enforcement authorities have been collaborating closely with organizations which help victims of violence. For example, the National Central Office of Interpol receives information from crisis centres on cases of unlawful detention and sexual exploitation abroad of Russian women, including under-age girls. ***The Committee requests the Government to continue to provide information on effective and time-bound measures taken to assist child victims of trafficking and to provide for their rehabilitation and social integration.***

Article 8. International cooperation and assistance. 1. *International cooperation.* The Committee notes that the Russian Federation is a member of Interpol, which helps cooperation between countries in the different regions especially in the fight against trafficking of children. The Committee also notes that the Russian Federation has ratified the United Nations Convention against Transnational Organized Crime and its supplementary Protocols against Smuggling of Migrants by Land, Sea and Air, as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. ***The Committee asks the Government to provide information on any steps taken to assist other member States or on assistance received giving effect to provisions of the Convention through enhanced international cooperation and assistance, in particular, on the issue of combating the trafficking of children.***

2. *Regional cooperation.* The Committee notes the Government's information that since 1998, joint operations have been under way with the countries of the Council of Baltic Sea States with a view to preventing cross-border smuggling of children. Under the auspices of that body's executive committee, so-called "contact officers", including some from the Russian Ministry of Internal Affairs, are dealing with specific cases requiring action to prevent trafficking in children for the purpose of sexual exploitation. Following a decision by the Interpol Operative Committee for the Baltic Sea States, available data on the cross-border smuggling of children for the purpose of prostitution is being analysed and the principal trafficking routes are being mapped. ***The Committee asks the Government to continue to provide information on regional cooperation with the countries of the Council of Baltic Sea States with a view to preventing cross-border trafficking of children.***

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

Sri Lanka

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the information supplied in the Government's report. It also takes note of the communication dated 10 August 2005 from the World Confederation of Labour (WCL) and the Government's reply thereto. ***It requests the Government to supply further information on the following points.***

Article 3 of the Convention. Worst forms of child labour. Clause (a). 1. *Sale and trafficking of children.* The Committee had previously noted the information from the International Confederation of Free Trade Unions (ICFTU) that Sri Lanka is both a country of origin and destination of trafficked persons, mainly women and children, for the purposes of forced labour and sexual exploitation. It had also noted that subsections (2) and (4) of section 360A of the Penal Code, as amended by Act No. 22 of 1995 and Act No. 29 of 1998, provide that the trafficking of children for the purpose of sexual exploitation constitutes an offence. However, it had observed that the abovementioned provisions only apply to children below 16 years of age and had asked the Government to indicate the measures taken to prohibit the sale and trafficking of children under 18 years of age.

The Committee notes the Government's information that, according to the National Plan of Action for Children of Sri Lanka 2004–08 (NPA 2004–08), the Ministry of Justice and Judicial Reform has taken steps to amend the Penal Code to criminalize the worst forms of child labour as set out in Convention No. 182, in order to reduce the incidences of the worst forms of child labour by facilitating prosecutions.

The Committee notes with satisfaction that, by virtue of the Penal Code (Amendment) Act, No. 16 of 2006, new section 360C(1)(c) states that whoever recruits, transports, transfers, harbours or receives a "child", or does any other act, whether with or without the consent of such child, for the purpose of securing forced or compulsory labour or services, slavery, servitude, or the removal of organs, prostitution or other forms of sexual exploitation, or any other act with constitutes an offence under any law, shall be guilty of the offence of trafficking. The offender shall be punished with imprisonment of either description for a term not less than three years and not exceeding 20 years, and may also be punished with a fine. Section 360C(3) states that in this section, "child" means a person under 18 years of age.

2. *Compulsory recruitment of children for use in armed conflict.* In its previous comments, the Committee had noted the ICFTU's indication that Sri Lanka has been the scene of an armed conflict between the Government and the

Liberation Tigers of Tamil Eelam (LTTE) since 1983 and that, according to the Amnesty International Report of 2003, the LTTE had recruited hundreds of persons under 18 years of age, some as young as 10 years old. It had also noted the Lanka Jathika Estate Workers' Union's (LJEWU) statement that there is no specific law which prohibits the forced or compulsory recruitment of children under 18 years of age for use in armed conflict and the Government should introduce such a prohibition as well as take immediate measure to stop such recruitment and deal with the offenders. The Committee had further noted that, according to the Government's report of 2002 to the Committee on the Rights of the Child (CRC/C/70/Add.17, paragraph 170), Sri Lankan authorities estimate that at least 60 per cent of LTTE fighters are below the age of 18 years. The Committee had noted the Government's information that no specific legal provisions exist which prohibit the use of children under 18 years of age in the armed conflict. It had also noted the Government's information that prevailing provisions are not strong enough to stop the recruitment and use of children in armed conflict by the LTTE, as it is continuing to recruit children for use in armed conflict. This conscription drive has removed most of the children against their will from schools, or from welfare centres and makeshift camps in the aftermath of the Tsunami disaster.

The Committee notes with satisfaction that, by virtue of Penal Code (Amendment) Act, No. 16 of 2006, section 358A has been inserted in the Penal Code. It notes that section 358A(d) states that any person, who engages or recruits a "child" for use in armed conflict, shall be guilty of an offence and be liable to imprisonment of either description for a term not exceeding 30 years and to a fine. Section 358A(3) states that in this section "child" means a person under 18 years of age. The Committee welcomes the adoption of new penal legislation prohibiting the forced or compulsory recruitment of children under 18 years for use in armed conflict. However, it notes with concern that, according to the information from the United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict of 27 June 2006 (OSRG/PR060623), the LTTE militant group continues to recruit and use child soldiers. It is reported that the Karuna faction has abducted and recruited children under 18 years. Besides recruitment of child soldiers, there are also allegations of other grave violations against children by all parties to the conflict. The Committee observes that, although the forced or compulsory recruitment of children under 18 years for use in armed conflict is prohibited by law, it remains a serious issue of concern in practice. ***The Committee urges the Government to take the necessary measures to implement the new penal legislation and to ensure that the offenders are prosecuted, and that sufficiently effective and dissuasive penalties are imposed in practice.***

Clause (b). Using, procuring or offering a child for prostitution. The Committee had previously noted the ICFTU's indication that child prostitution is prevalent in Sri Lanka and that, according to PEACE (an NGO), at least 5,000 children in the age bracket of 8 to 15 are exploited as sex workers, particularly in certain coastal resort areas. The Committee notes the WCL's statement in its recent communication that there is the problem of children used for male prostitution, especially in areas where tourism flourishes. It had further noted that sections 360A, 360B and 288A of the Penal Code, as amended respectively by Penal Code (Amendment) Act No. 22 of 1995, and Penal Code (Amendment) Act. No. 29 of 1998, prohibit a wide range of activities associated with prostitution, including the prohibition of the use, procuring or offering of minors under 18 for prostitution. The Committee had also noted that, in its Concluding Observations of July 2003 (CRC/C/70/Add.17; paragraph 240), the Committee on the Rights of the Child expressed its concern that the existing legislation was not effectively enforced.

The Committee is very concerned about the absence of information from the Government on this point. It observes that although the commercial sexual exploitation of minors under 18 is prohibited by law, it remains an issue of concern in practice. The Committee urges the Government to take immediate and effective measures to enforce the legislation. It asks the Government to provide information on progress made in this regard.

Article 6, paragraph 1. Programmes of action to eliminate the worst forms of child labour. Trafficking. The Committee had previously noted that Sri Lanka is one of the three countries included in the ILO-IPEC TICSА programme, launched in June 2000 for a period of two years. It had noted that the National Plan of Action against Child Trafficking developed under TICSА – to be implemented within ten years – covers four areas of intervention, namely: legal reform and law enforcement; institutional strengthening and research; prevention; and rescue, rehabilitation and reintegration. The Committee notes that, in 2002, Sri Lanka renewed the Memorandum of Understanding with ILO-IPEC to cover a further five years of collaboration, ending December 2006. In this framework, TICSА is moving into Phase II (TICSА II) with the main objective of preventing 2,000 girls and boys from being trafficked into exploitative forms of employment. The Committee notes that, according to the "Report to the National Steering Committee", as of May 2005, a number of programmes were implemented under TICSА II aimed at preventing the trafficking of children for labour and sexual exploitation and rehabilitating and reintegrating child victims of trafficking. ***The Committee requests the Government to provide information on the impact of TICSА II and the National Plan of Action against Child Trafficking on combating the trafficking of children for labour and sexual exploitation.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Child trafficking. The Committee notes that under TICSА, a "Project for Strengthening the National Capacity to Combat Trafficking in Children for Exploitative Employment" was launched, which resulted in the establishment of an Anti-trafficking Unit and operationalization of a professional surveillance system against offenders of child trafficking. It also notes that, according to the "Report to the National Steering Committee", under TICSА II the following projects were implemented aimed at preventing child trafficking: (a) "Project for strengthening the national capacity to combat trafficking in children for exploitative employment", including training, awareness-raising campaigns

and review of the National Plan of Action; (b) “Prevention of child trafficking for labour exploitation in the north central province of Sri Lanka” (Don Bosco Vocational Training Institute), providing for remedial education and vocational training; (c) “Strengthening plantation communities to prevent trafficking of children for labour and sexual exploitation and facilitate rehabilitation”, providing for educational programmes, vocational training, psychosocial care, support and legal aid to child victims of trafficking; and (d) “Prevention of trafficking in the Mannar District (Don Bosco Institute)”, providing for remedial education and vocational training in the Mannar District (conflict zone). ***The Committee requests the Government to continue providing information on the concrete measures taken under TICS II and the National Plan of Action to prevent children under 18 years of age from being engaged in trafficking, and the results attained.***

Clause (b). Direct assistance for the removal of children from the worst forms of child labour. Child victims of trafficking. The Committee notes that, according to the “Report to the National Steering Committee”, a number of programmes have been implemented under TICS II, aimed at rehabilitating and reintegrating former victims of child trafficking. The Committee also notes that a number of measures to this end are provided for in the National Plan of Action against Child Trafficking, which include awareness-raising campaigns; training of personnel; establishment of “half-way homes” and “drop-in centres” for child survivors; and elimination of the re-victimization of rescued children. ***The Committee requests the Government to provide information on the number of child victims of trafficking who have been rehabilitated under the abovementioned programmes.***

Clause (d). Identify and reach out to children at special risk. 1. Children who have been affected by armed conflict. The Committee notes the Government’s information that UNICEF is undertaking several rehabilitation programmes for rescued child combatants. In this regard, it notes that, according to the 2004 UNICEF data, in June 2003, the Government of Sri Lanka and the LTTE jointly signed the Action Plan for Children Affected by War. The Action Plan was especially designed to increase opportunities for children’s access to education, quality health care and skills training. Under the UNICEF’s initiative, over 32,000 children, including former child recruits, have enrolled in schools in the north-east. The Committee notes that, under the National Plan of Action for the Children of Sri Lanka 2004–08 (NPA 2004–08), a campaign against the recruitment of child soldiers is projected to be carried out by the Ministry of Education and NGOs. It also notes that the following programmes have been adopted between 2004 and 2005 with the assistance of ILO-IPEC in order to address the problems of children involved in armed conflict, namely: (a) “Providing vocational training options to prevent children affected by war from entering the worst forms of child labour and to rehabilitate released underage ex-combatants”; (b) “Providing vocational training options to prevent children affected by war from entering the worst forms of child labour in Moolai, Chulipuram and Jaffna”; (c) “Community-based training for livelihood activities and micro-enterprise development in the Batticaloa and Trincomalee districts”; and (d) “Service contract with Apeksha for a study on children in armed conflict”. ***The Committee requests the Government to continue providing information on the impact of the measures aimed at rehabilitating and reintegrating former child combatants and to indicate approximately how many former child combatants have been rehabilitated through such measures.***

2. Child domestic workers. The Committee had previously asked the Government to provide information on measures taken to protect child domestic workers under 18 years from hazardous labour and which provide for their rehabilitation and social integration. The Committee notes the Government’s information that domestic work has been included in the draft list of hazardous types of work and may be undertaken by children between 14 and 18 years of age only under certain conditions. It notes the Government’s information that the National Plan of Action (NPA) formulated in collaboration with ILO-IPEC provides for preventive measures addressing child domestic workers, including educational measures, skills developing projects, and awareness-raising campaigns conducted in plantations. The NPA also targets the improvement of the working conditions of domestic servants. Finally, it provides for strengthening the capacity of institutions and human resources in the implementation process. The Committee notes that a number of programmes have been adopted in 2002–03 in collaboration with ILO-IPEC aimed at preventing child domestic labour, especially in plantation communities and war affected villages. It also notes that, according to the document “A study of youth domestic workers (14–18 years) in Sri Lanka: Proposals for legal amendments and a code of conduct”, which is the result of the National Child Protection Authority’s study conducted in collaboration with ILO-IPEC, an amendment to the Employment of Young Persons Regulation is proposed which concerns new provisions on young persons employed as domestic servants (including hours of work and the process of registration with the Commissioner of Labour), as well as a code of conduct for employers of young persons. ***The Committee requests the Government to continue providing information on measures taken to protect child domestic workers under 18 years of age from work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals.***

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

Sudan

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

The Committee notes the Government’s first report. It also notes the communication of 7 September 2005 received from the International Confederation of Free Trade Unions (ICFTU) under Convention No. 29 and the Government’s reply thereto dated November 2005. Finally, it takes note of the detailed discussion which took place at the Conference Committee on the Application of Standards of the 93rd Session of the International Labour Conference in June 2005.

Referring to the comments made by the Committee under the Forced Labour Convention, 1930 (No. 29), in so far as *Article 3(a) of Convention No. 182* provides that the worst forms of child labour include “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom or compulsory labour”, the Committee is of the view that the issue of the forced labour of children can be examined more specifically under this Convention. ***The Committee requests the Government to supply further information on the following points.***

Article 3. Worst forms of child labour. Clause (a). Slavery and practices similar to slavery. Abduction and the exaction of forced labour. In its previous comments under Convention No. 29, the Committee had noted the ICFTU’s allegation that the report on the situation in Darfur issued by Amnesty International in July 2004 indicates cases of abduction of women and children by the *Janjaweed* militia, including some cases of sexual slavery. Abductions had continued in 2003 and 2004. The ICFTU also indicated that, according to the Dinka Chiefs Committee (DCC) and the Committee for the Eradication of Abduction of Women and Children (CEAWC), there were some 14,000 people who had been abducted. The Committee had also noted the Government’s information that, during the period from March to May 2004, the CEAWC was able to retrieve, with the Government’s funding, more than 1,000 abductees who rejoined their families, including those in the areas controlled by the Sudan People’s Liberation Army (SPLA).

The Committee notes the Government’s information during the Conference Committee discussion of June 2005 according to which the CEAWC has dealt with 11,000 of the 14,000 cases of abduction and about 7,500 persons have been retrieved in 2004–05 compared with 3,500 from 1999 to 2004.

The Committee also notes the information contained in the ICFTU’s communication of 7 September 2005 that the signing of a comprehensive Peace Agreement in January 2005, the inauguration of a new Government on 9 July 2005 and the adoption of the interim Constitution provide an historic opportunity for the new Government of Sudan to resolve the problem of abductions, but it will not automatically lead to an end of abductions and the exaction of forced labour. With regard to the Government’s statement during the Conference Committee of 2005 that “the case was closed and there were no more abductions”, the ICFTU alleges that it has been informed about abductions leading to forced labour and repeated rape amounting to sexual slavery and forced prostitution. The Committee also takes note of the Government’s reply of November 2005, according to which 108 abducted children have been retrieved by the CEAWC.

The Committee notes that article 30(1) of the Constitution of the Transitional Sudan Republic of 2005 prohibits slavery, the slave trade in all its forms and forced labour (unless sanctioned by the tribunal). It notes the Government’s information that section 32 of the Act on the Child of 2004 specifically prohibits “the employment of children in forced labour, sexual or pornographic exploitation, illegal trade, or armed conflict”. The Committee also notes that various provisions of the Penal Code prohibit forced labour (section 311), including abductions for that purpose (section 312).

The Committee notes the convergence of allegations and the broad consensus among the United Nations bodies, the representative organizations of workers and non-governmental organizations concerning the continuing existence and scope of the practices of abduction and the exaction of forced labour from children. The Committee observes that, while there have been positive and tangible steps to combat the forced labour of children, which include the conclusion of the Comprehensive Peace Agreement of 2005 and the results achieved by the CEAWC, there is no verifiable evidence that the forced labour of children has been abolished. Therefore, although the national legislation appears to prohibit abductions and the exaction of forced labour, this remains an issue of concern in practice. In this regard, the Committee reminds the Government that, by virtue of *Article 3(a)* of the Convention, forced labour is considered as one of the worst forms of child labour and that, by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. The Committee expresses its deep concern over the situation of children under 18 years who continue to be abducted and subject to forced labour. ***It urges the Government to redouble its efforts to improve the situation and to take the necessary measures to eradicate abductions and the exaction of forced labour from children under 18 years. It also requests the Government to provide information on the effective and time-bound measures taken to remove children from situations of abduction and forced labour and to provide for their rehabilitation and social integration.***

2. Forced recruitment of children for use in armed conflict. The Committee notes that, according to the Government’s Periodic Report to the Committee on the Rights of the Child of 6 December 2001 (CRC/C/65/Add.17, paragraph 39), the National Service Law of 1992 stipulates that any Sudanese person having attained 18 years of age and who is not older than 33 years of age may be subject to conscription. Section 10(4) of the People’s Armed Forces Act of 1986 states that all those who are capable of bearing arms are regarded as a reserve force and may be called upon to serve in the armed forces whenever the need arises. Subsection (5) of section 10 further states that, without prejudice to the provisions of subsection (4), the President of the Republic may require any person who is capable of bearing arms to undergo military training and thus be prepared as a member of a reserve force in accordance with the conditions specified by any law or decree in force. Furthermore, the government-run Popular Defence Forces established as a paramilitary force by the Popular Defence Forces Act of 1989, are allowed to recruit 16 year olds.

The Committee notes that, according to the information available at the Office, the government armed forces, including the paramilitary Popular Defence Forces (PDF), the government-backed militias, the SPLA and other armed groups, including tribal groups not allied to government or armed opposition groups, have forcibly recruited child soldiers in the north and the south of Sudan. Recruitment took place predominantly in Western and Southern Upper Nile, Eastern Equatoria and the Nuba Mountains. An estimated 17,000 children remained in the government, SPLA and militia forces in

2004. In some cases, they were made to attack their own or neighbouring communities. The Committee also notes that in April 2003, the United Nations High Commissioner for Human Rights expressed concern at the continued recruitment and use of children in Sudan, in violation of international law. The Committee also notes that the Committee on the Rights of the Child, in its Concluding Observations of 9 October 2002 (CRC/C/15/Add.190, 2002, paragraphs 59 and 60) expressed deep concern that children are used as soldiers by the Government and opposition forces, and recommended the State party to end all recruitment and use of children as soldiers, in accordance with applicable international standards, complete demobilization and rehabilitate those children who are currently working as soldiers, and to comply with the Commission on Human Rights resolution 2001.

The Committee notes the Government's information that section 9(24) of the Sixth Protocol of the Comprehensive Peace Agreement requires "the demobilization of all child soldiers in the span of six months as from the date on which the Comprehensive Peace Agreement is signed". Section 9(1)(10) of the Protocol considers the conscription of children a violation of the provisions of the Agreement. If such a violation occurs, the joint military committee shall decide on the appropriate disciplinary measures to be taken which include: "declaring or announcing the parties which are involved in the conflict, exposing or denouncing the culprit, or deciding on imposing a harsh penalty if the culprit is involved in serious violations, recommending that the individual culprit or parties involved be referred to a tribunal be it civil, criminal or military, as the case may be". The Committee also notes the Government's information that a Committee was set up after the Peace Agreement which is specialized in disarmament, demobilization and reintegration. It formulated a draft policy framework for the demobilization and reintegration of children linked to the armed forces groups.

The Committee notes the adoption of the Comprehensive Peace Agreement in January 2005. However, it considers that the prohibition of forcibly recruiting children should not be confined to the scope of the said Agreement. Hence, the Committee observes that, according to the legislation in force, children under 18 years may be recruited as "reserve forces" as well as members of the Popular Defence Force (from 16 years of age). ***The Committee therefore requests the Government to take the necessary measures, as a matter of urgency, to prohibit in the national legislation the compulsory recruitment of children under 18 years including as "reserves", in any military force, governmental or not, and to adopt appropriate penalties for contraventions of the prohibition. It also requests the Government to provide information on the time-bound measures taken to demobilize all child soldiers, including information on the number of children under 18 years who have been rehabilitated and reintegrated in their communities.***

Article 7. Penalties. Forced labour. In its previous comments under Convention No. 29, the Committee had noted that the CEAWC was of the opinion that legal action was the best measure to eradicate abductions, while the tribes, including the DCC, had requested the CEAWC not to resort to legal action unless the amicable efforts of the tribes had failed.

The Committee notes the ICFTU's allegation that the impunity that those responsible for abductions and the exaction of forced labour have enjoyed – illustrated by the absence of any prosecutions for abductions in the last 16 years – has been responsible for the continuation of this practice throughout the civil war and more recently in Darfur. The Committee notes the Government's reply of November 2005 according to which, the main reasons for which all the tribes concerned, including the DCC, have requested the CEAWC not to resort to legal action unless the amicable efforts of the tribes are not successful, are that: legal action is very long and expensive; it may threaten the life of young abductees; and it will not build the peace among the tribes concerned.

The Committee notes that the Penal Code of 2003 contains various provisions which provide for sufficiently effective and dissuasive penalties of imprisonment and fines for anyone who commits the offence of forced labour. It also notes the Government's information that section 67(d) of the Child Act of 2004, states that any person who violates section 32 prohibiting forced labour, shall be punished by imprisonment for a maximum period of 15 years and by a fine decided upon by the tribunal.

The Committee notes that the Committee on the Rights of the Child, in its Concluding Observations of 9 October 2002 (CRC/C/15/Add.190, paragraph 62) recommended the State party to prosecute those persons engaged in the abduction, sale and purchase or illegal forced recruitment of children. The Committee considers that the lack of enforcement of the penal provisions prohibiting the forced labour of children under 18 years, while sometimes ensuring that victims are effectively retrieved, has the effect of ensuring impunity for perpetrators instead of punishing them. The Committee reminds the Government that, by virtue of *Article 7, paragraph 1*, of the Convention, the Government shall take the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including through the provision and application of penal sanctions. ***The Committee requests the Government to take the necessary measures to ensure that those engaged in the abduction and exaction of forced labour from children under 18 years are prosecuted and that sufficiently effective and dissuasive penalties are imposed on them. It also requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied.***

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

United States

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)

The Committee takes note of the Government's report. It also notes the communications of the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) dated 6 June 2005 and 3 October 2006 and the Child Labor Coalition's reports annexed thereto. The Committee further takes note of the detailed discussion which took place at the Conference Committee on the Application of Standards at the 95th Session of the International Labour Conference in June 2006. ***The Committee requests the Government to provide information on the following points.***

Article 3 of the Convention. Worst forms of child labour. Clause (a). Slavery and practices similar to slavery. Sale and trafficking of children. In its previous comments, the Committee had noted the AFL–CIO's allegation of 9 January 2004, corroborated by the report of the "Trafficking in Persons and Worker Exploitation Task Force" (hereinafter TPWETF), that the United States is thought to be the destination of 50,000 trafficked women and children each year. The AFL–CIO indicated that approximately 30,000 women and children are trafficked annually from South-East Asia, 10,000 from Latin America, 4,000 from the former Soviet Union and Central and Eastern Europe, and 1,000 from other regions. The Committee had noted that the Trafficking Victims Protection Act of 2000 (TVPA) created new crimes and enhanced penalties for existing crimes including trafficking with respect to peonage, slavery, involuntary servitude, forced labour or sex trafficking of children. It had also noted that Title 18 USC, section 1590, introduced by the TVPA, states that whoever knowingly recruits, harbours, transports, provides or obtains by any means a person for labour or services commits an offence. Pursuant to the adoption of the TVPA, victims of trafficking benefit from assistance and are considered to be "victims of a severe form of trafficking in persons" (for sexual or labour exploitation, according to section 8 of the Act) when they are under 18 years of age (section 14).

The Committee notes with satisfaction the Government's information that on 19 December 2003 Congress enacted the Trafficking Victims Protection Reauthorization Act (TVPRA), which reauthorized the TVPA in 2003 and 2005 and added responsibilities to the United States Government's anti-trafficking portfolio. The TVPRA of 2003 mandated new information campaigns to combat sex tourism, enhanced anti-trafficking protection under federal criminal law and created a new civil action that allows trafficking victims to sue their traffickers in federal district courts. The TVPRA of 2005 extended and improved prosecutorial and diplomatic tools, provided for new grants to state and local law enforcement agencies, and expanded the services available to certain family members of victims of severe forms of trafficking. The Committee notes the Government's statement that the statistics referred to by the AFL–CIO in 2004 were based on a compilation of 1997 data which are now outdated. Since that time, the Government has refined its data collection and methodology, and, as of May 2004, it estimates that 14,500–17,500 people are trafficked annually into the United States. This estimate covers men, women and children who are victims of severe forms of trafficking as defined in the TVPA. The most recent estimates show that the largest number of people trafficked into the United States come from East Asia and the Pacific (5,000–7,000). The next highest numbers come from Latin America and from Europe and Eurasia (between 3,500 and 5,500 victims). Most trafficked victims are employed in the sex sector, migrant farm work, domestic or household work, and low-wage industries such as the restaurant and hotel industries.

The Committee notes the Government's statement that additional research and studies regarding trafficking in persons have been funded over the past five years. In addition, the Government has funded three multi-year projects related to trafficking into the United States which are pending. There are also pending TVPRA-mandated research projects regarding the economic causes and consequences of trafficking, the effectiveness of US efforts to prevent trafficking and assist its victims, and the interrelationship between trafficking in persons and global health risks. The Committee also notes the Government's information that the Department of Justice (DOJ) has drafted a model anti-trafficking statute for states and is encouraging them to adopt their own laws. Pursuant to this initiative several states have passed comprehensive trafficking laws based on the model, while others have adopted their own statutes.

The Committee welcomes the recent comprehensive measures taken to combat trafficking in children for labour and sexual exploitation. It nevertheless notes that, although the law prohibits the trafficking of children for labour or sexual exploitation, it still remains an issue of concern in practice. ***The Committee accordingly encourages the Government to redouble its efforts to eliminate the trafficking of children under 18 years for labour and sexual exploitation and to provide information on progress made in this regard. The Committee also requests the Government to provide information on the pending projects on trafficking funded by the Government and their impact on eliminating the trafficking of children under 18 years for labour and sexual exploitation.***

Articles 3(d) and 4(1). Hazardous work. The Committee had previously noted the AFL–CIO's indication that between 300,000 and 800,000 children are employed in agriculture under dangerous conditions. Many work for 12 hours a day and are exposed to dangerous pesticides, suffer rashes, headaches, dizziness, nausea and vomiting, often risking exhaustion or dehydration due to lack of water, and are often injured. The Committee had noted that, as an exemption from section 213 of the Fair Labour Standards Act (FLSA), in agriculture, 16 is the minimum age under section 213(c)(1) and (2) of the FLSA for employment in occupations (outside of family farms) that the Secretary of Labor finds and declares to be "particularly hazardous for the employment of children". It had observed that, while *Article 4(1)* of the Convention allows the types of hazardous work to be determined by national laws or regulations or the competent authority after consultation with the social partners, section 213 of the FLSA authorizes children aged 16 and above to

undertake, in the agricultural sector, occupations declared to be hazardous or detrimental to their health or well-being by the Secretary of Labor.

The Committee notes the AFL–CIO’s allegation of 6 June 2005 – referring to the Child Coalition Report of June 2005 – that, because of the statutory differential in minimum ages in agriculture, on the one hand, and all other industries, on the other hand, the Hazardous Orders regulations contain numerous anomalies, such as the fact that using a power-driven circular saw or band saw is allowed for children starting from 16 in agriculture, whereas in other industries the minimum age for using such saws is 18 years. According to the AFL–CIO and the National Institution for Occupational Safety and Health (NIOSH), during the period from 1992 to 1997, a total of 403 children under 18 years were killed while working. One-third of the occupational deaths were associated with tractors. The industry that had by far the highest number of fatalities – 162, or 40 per cent – was agriculture, forestry and fishing, even though only 13 per cent of children under 18 worked in this sector. This high rate of fatal injuries was confirmed by the fact that youth of 15 to 17 years of age working in agriculture appear to have over four times the risk for the injury of youth workers in other industries. However, eventual changes to Hazardous Orders (HOs) could be not expected to have an impact on the injuries of young workers of 16 and 17 years who fall outside the coverage of the FLSA. The AFL–CIO points out that, according to the General Accounting Office (GAO) “Pesticides: Improvements Needed to Ensure the Safety of Farmworkers and their Children” of 2000 (GAO’s report of 2000), over 75 per cent of pesticides are used in agriculture and children are much more vulnerable to harm from pesticides, both because they breathe more than adults per unit of body weight and because their bodies and internal organs are still developing.

The Committee notes the Government’s information that the FLSA, which was developed through a process open to the participation of employers’ and workers’ representatives, does not authorize the Secretary of Labor to restrict young persons of 16 years and older from working in agriculture. It notes the Government’s statement that the national law fulfils the requirements of *Articles 3(d) and 4(1)* of the Convention, which allow governments, in good faith and subject to certain procedural requirements, to establish standards that treat children of different ages differently, and that treat different classes of occupations differently. Moreover, in determining types of hazardous work, pursuant to *Articles 3(d) and 4(1)* of the Convention, Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), allows ratifying countries to permit 16 and 17 year olds to engage in types of work referred to by *Article 3(d)* on conditions that the health, safety and morals of the children are fully protected. Therefore, the Congress has determined that it is safe and appropriate for children at 16 to perform work in the agricultural sector, in conformity with *Articles 3(d) and 4(1)* of the Convention. The Committee notes the Government’s statement that it continues to seek ways to better protect the health and safety of children working in the agricultural industry. This includes: (i) programmes to protect farm workers and their children from pesticides, such as the Environmental Protection Agency’s (EPA) review of the Worker Protection Standard (WPS) launched in response to the GAO’s report of 2000; (ii) programmes to educate young workers about safety and health in agriculture through the Department of Labor (DOL)’s Occupational Safety and Health Administration (OSHA); (iii) programmes to prevent injuries among children, through DOL’s participation in the Federal Inter-agency Working Group on Preventing Childhood Agricultural Injuries chaired by the NIOSH. The Committee notes the Government’s statement that some states (i.e. Florida and Oregon) have adopted more stringent agricultural standards than the federal Government and prohibit children under 18 years of age from performing some hazardous activities.

While taking note of this information, the Committee shares the concern of the Conference Committee with regard to the hazardous and dangerous conditions that are and could be encountered by children under 18, and indeed in some cases under 16, in the agricultural sector. It also expresses its concern at the high number of injuries and fatalities, including death, suffered by children under 18 years working in the agricultural sector. The Committee emphasizes that, by virtue of *Article 3(d)*, work which, by its nature and the circumstances in which it is carried out, is likely to harm the health, safety or morals of children, constitutes one of the worst forms of child labour and that, by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee accordingly encourages the Government to take the necessary measures to ensure that work performed in the agricultural sector is prohibited to children under 18 years where it is hazardous within the meaning of the Convention.***

Article 4, paragraph 3. Examination and periodical revision of the types of hazardous work. The Committee had previously noted that 28 HOs adopted by virtue of the FLSA determine the types of work or activities that children under 18 shall not perform. It also noted that these Orders were established in 1939 and 1960 with regard to non-agricultural occupations and in 1970 for agricultural occupations. It had noted that the NIOSH recommended the development of several new HOs to protect children from particularly hazardous work not adequately addressed in the existing regulation. It had noted the Government’s indication that it was in the final stages of rule-making on several HO recommendations by the NIOSH: those relating to driving and operating balers and compactors, roofing, and handling explosive materials. The Committee notes the AFL–CIO’s allegation of June 2005 that the NIOSH in March 2002 issued recommendations for changing the existing agricultural HOs. It notes the Government’s information that the HOs relating to driving and operating balers and compactors, roofing and handling explosives, were amended on 16 December 2004, along with revisions to the child labour regulations under the FLSA. In particular, HO 2 was amended to provide that minors under 17 years of age cannot drive automobiles and trucks on public roadways on the job and establishes limited conditions and criteria under which 17-year-olds may perform such activities. HO 12 was amended to establish criteria permitting 16 and

17-year-olds to load, but not unload, certain restricted waste material, baling and compacting equipment. ***The Committee requests the Government to continue providing information on the amendments to the existing HOs pursuant to the recommendations of the NIOSH, especially in the agricultural sector.***

Article 5. Monitoring mechanisms. 1. Trafficking of children. In its previous comments, the Committee had noted that the TPWETF was established to prevent the criminal exploitation of children and to investigate cases involving the exploitation of children in forced labour in agriculture or sweatshops or as domestic servants or as prostitutes. The Committee notes the Government's information that coordination among US federal agencies in combating trafficking, which previously occurred through the TPWETF, is now primarily done by the cabinet-level Inter-agency Task Force to Monitor and Combat Trafficking in Persons (ITFCTP) and the Senior Policy Operating Group on Trafficking of Persons (SPOG), chaired by the Director of the State Department's Office to Monitor and Combat Trafficking in Persons. Such coordinated efforts include: toll-free hotlines to report instances of human trafficking and worker exploitation; public-awareness strategies; and delivery of benefits and services to trafficking victims. Since its inception, the SPOG has been responsible for a number of inter-agency policy developments, including coordination of plans to address trafficking in persons and coordination guidelines to implement the National Security Presidential Directive on trafficking in persons.

2. Hazardous work and agriculture. The Committee had previously noted the AFL-CIO's indication that an estimated 100,000 children suffer agriculture-related injuries annually in the United States and that very few inspections take place in agriculture. It had also noted that, according to the GAO's report of 1998 "Child labour in agriculture: Changes needed to better protect health and educational opportunities", the number of recorded inspections in agriculture by the DOL's Wages and Hour Division (WHD), the OSHA, the EPA and the states, has generally declined in recent years. Thus, it observed that the GAO recommended that steps be taken to ensure that the procedures specified in the existing agreement among the WHD and other federal and state agencies, especially with regard to joint inspections and exchange of information, are being followed.

The Committee notes the AFL-CIO's allegation of 3 October 2006 that, in 2005 the DOL's WHD conducted 1,784 child labour investigations, which represents a drastic 31.5 per cent decline from 2,606 child labour investigations conducted in 2004 and also represents the lowest number of child labour investigations in at least ten years. Moreover, despite all the hazards faced by children working in agriculture, the DOL conducts very few child labour investigations in agriculture. In 2005, only 25 of the 1,784 child labour investigations conducted (1.4 per cent) involved agricultural employers, which is less than one-fifth of the child labour investigations conducted in 1999.

The Committee notes the Government's information that, in 2004, the WHD concluded over 1,600 investigations in the agricultural industry and found 42 minors illegally employed in 26 cases. Four minors were found illegally employed in violation of the agricultural HOs. It notes the Government's information that the EPA revised the national WPS inspection guidance for conducting routine use inspections on agricultural establishments. Moreover, WHD, OSHA and NIOSH have partnered to reduce occupational deaths and injuries to youth on farms through compliance assistance and awareness. While taking note of this information, the Committee expresses its concern at the decreasing number of child labour investigations conducted in the agricultural sector in 2005. ***It encourages the Government to redouble its efforts to enforce child labour laws in agriculture, especially with regard to hazardous work. It requests the Government to provide information on the measures taken in this regard and their impact on the elimination of hazardous work in this sector.***

Article 7, paragraph 1. Penalties. The Committee had previously noted that the TVPA and the USC provide for sufficiently effective and dissuasive penalties for the offences of: trafficking for purposes of slavery or forced labour (Title 18 USC, section 1590); sex trafficking of children (Title 18 USC, section 1591(b)(2)); slavery (Title 18 USC, sections 1583 and 1584); forced labour (Title 18 USC, section 1589); using a child to import, export or produce controlled substances or for the commission of drug related offences (Title 21 USC, section 841(b) and 861(b)). The Committee had also noted that the Federal Sentencing Guidelines of 2000 provide for increased penalties for crimes involving minors under 18 years of age such as the exploitation of children for drug trafficking (section 2D1.2), for prostitution (section 2G1.1), for the production of pornography (sections 2G2.1. and 2G2.3) or to commit a crime (section 3B1.4). It had noted that the Secretary of Labor proposed to raise the maximum penalty from US\$11,000 to US\$50,000 for any kind of child labour violation which results in death or maiming. In addition, the Secretary of Labor proposed to raise the maximum penalty for wilful or repeated violations that lead to the death or serious injury of a child. The Committee notes the Government's information that the President's budget for the 2004–06 fiscal years included proposals to increase civil money penalties for violations of the FLSA's youth employment provisions that result in the death or serious injury of a young worker. The proposal was transmitted to Congress in 2005 but has not been enacted. ***The Committee requests the Government to provide information on any progress towards the enactment of this proposal.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Children in migrant and seasonal agriculture. Following its previous comments, the Committee notes with interest the Government's information that the Office of Migrant Education at the Department of Education administers several programmes that provide academic and supportive services to children of families who migrate to find work in the agricultural and fishing industries, focusing on helping migrant students to succeed. Some of these programmes, as the College Assistance Migrant Program (CAMP), the High School Equivalency Program (HEP) and the Migrant Education Program (MEP), assist migrant students in meeting challenging academic standards and

achieving graduation from high school and help them to overcome the effects of migrancy (such as educational disruption and cultural and language barriers). Others, such as the Migrant Education Even Start Program (MEES) are designed to help break the cycle of poverty and improve the literacy of participating migrant families by integrating early childhood education, adult literacy or adult basic education and parenting education into a unified family literacy programme. The Committee notes the Government's information that, in response to the recommendations of a Presidential Task Force for Disadvantaged Youth, the Departments of Labor, Education, Health and Human Services, and Agriculture have joined forces to address the education needs of migrant youth, including basic education services for high school completion, workforce training and placement services.

Clause (b). Direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. Following its previous comments, the Committee notes the Government's information that in 2004 the Department of Health and Human Services (HHS) issued 19 eligibility letters to minors, compared with six letters in 2003. Special programmes, which involve immigration attorneys and social service providers, as well as the Lutheran Immigration and Refugee Service and the US Conference of Catholic bishops, have been created to care for trafficked children who do not have a parent or guardian. In addition, by April 2004, the HHS, as a member of the ITFCTP, awarded over US\$8 million in grants to 28 organizations for services geared specifically toward trafficking victims and for outreach to them. Moreover, the HHS has launched in 2004 the campaign "Rescue and Restore Victims of Human Trafficking". This programme – launched in the three pilot cities of Atlanta, Philadelphia and Phoenix and then expanded to others – is helping to increase the rate at which victims are identified and become eligible to receive benefits and services under the TVPA so that they can regain their dignity and safely rebuild their lives in the United States. The theme of the campaign is "Looking beneath the surface" and it seeks to educate intermediaries that may be encountering victims to look beyond the obvious in order to increase the number of trafficking victims identified. The "Rescue and restore" campaign also includes the "Human trafficking and referral hotline", a toll-free telephone number manned by trained crisis counsellors with on-site capability in English and Spanish and conference call access to translators in 150 additional languages.

Clause (c). Access to free basic education. Child victims of trafficking. The Committee had previously noted that, under section 106(A)(3) of the TVPA, the President shall establish and carry out programmes to keep children, especially girls, in elementary and secondary school and to educate persons who have been victims of trafficking. The Committee notes the Government's information that Title I of the "No Child Left Behind Act" of 2001, "Improving the Academic Achievement of Disadvantaged", although not specifically aimed at keeping child victims of trafficking in school, has as its goal ensuring that all children have a fair, equal and significant opportunity to obtain a high quality education. Title I provides supplemental education funding for locally designed programmes that offer extra academic support to help raise the achievement of students at risk of educational failure. In addressing the needs of at risk students, these programmes contribute to making them less vulnerable to the worst forms of child labour. The Committee also notes the Government's information that the Office of Refugee Resettlement (ORR)'s Unaccompanied Refugee Minors (URM) programme places unaccompanied minor trafficking victims into foster care and provides them, amongst others, with education, job skill training and career counselling.

Clause (e). Special situation of girls. The Committee had previously noted that there are federal and state programmes designed to protect young girls who are considered at high risk of exploitation. The Committee notes the Government's information that, in addition to the continuation of the "Girl Power!" initiative, in May 2005 the HHS launched a new programme to increase outreach in targeted geographic regions to, inter alia, girls exploited through commercial sex.

Article 8. International cooperation. The Committee had previously noted that the United States participates in ILO-IPEC projects aimed at the elimination of the worst forms of child labour worldwide. The Committee notes with interest the Government's information that, in 2004, it supported approximately 251 international anti-trafficking programmes in 86 countries, running the gamut from small projects to large projects to develop comprehensive regional and national strategies to combat trafficking. It notes the Government's statement that since 1995, it has provided approximately US\$480 million for technical assistance projects aimed at eliminating exploitative child labour around the world. Of this amount, over US\$295 million has gone to ILO-IPEC, making the United States the largest contributor to IPEC. In addition, through its Child Labor Education Initiative (EI), the United States has provided over US\$182 million for grants to promote educational and training opportunities for child labourers or children at risk of engaging in exploitative labour. Combined, the IPEC and EI programmes have funded more than 180 projects in at least 75 countries in Asia, Africa, Latin America and the Caribbean, the Middle East and Europe. The Committee notes the Government's statement that awareness-raising campaigns on the global worst forms of child labour, especially the problem of child soldiers and the trafficking of children for labour and commercial sexual exploitation, constitute an important part of the DOL's activity.

Part V of the report form. Following its previous comments, the Committee notes the Government's information that the TVPA, as amended by the TVPRA, requires that the Attorney-General submit an annual report to Congress assessing the impact of United States government activities to combat trafficking in persons which include, among others, information on: the number of trafficking victims who received government benefits and services; the number of investigations and prosecutions of trafficking in persons. It also notes the Government's information that, in 2004, the

DOJ filed 12 TVPA cases and obtained 245 convictions. In total, the DOJ filed 29 trafficking cases in 2004, which is more than double the cases filed in 2003. The majority of these cases involved offences against children. It notes the Government's information that under the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT) Act of 2003, there have been roughly 60 sex tourism investigations, 27 sex tourism indictments or complaints and 16 convictions. Regarding the programmes on child pornography launched by the CEOS and the FBI, the Committee notes the Government's information that 35 victims in Indiana, Montana, Texas, Colorado and Canada have been identified as a result of the FBI Endangered Child Alert Program (ECAP) which was launched in 2004 by the FBI's Innocent Images Unit with the goal of identifying subjects who are engaged in the sexual exploitation of children depicted in images of child pornography. Moreover, during 2004, the FBI's Criminal Investigative Division initiated 67 "Innocent Lost" investigations, which led to 118 arrests and 26 indictments. Since the inception in 2003 of the "Innocent lost" initiative to address child prostitution, 80 children have been recovered. *The Committee takes due note of this information and requests the Government to continue providing information on the worst forms of child labour through copies of or extracts from official documents, including inspection reports, studies and inquiries, and information on the nature, extent and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention, the number and nature of infringements reported, investigations, prosecutions, convictions and penal sanctions applied.*

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 5** (Denmark: Greenland, Estonia, Haiti); **Convention No. 6** (Algeria, Benin, Burkina Faso, Cambodia, Central African Republic, Colombia, Congo, Denmark: Greenland, Estonia); **Convention No. 10** (Australia); **Convention No. 33** (Cameroon); **Convention No. 59** (Ghana, Guatemala); **Convention No. 77** (Algeria, Azerbaijan, Belarus, Cameroon, Comoros, Cuba, Czech Republic, El Salvador, France: New Caledonia, Guatemala, Haiti, Hungary, Israel, Italy, Kyrgyzstan); **Convention No. 78** (Algeria, Azerbaijan, Belarus, Comoros, Cuba, Czech Republic, El Salvador, France: New Caledonia, Guatemala, Haiti, Honduras, Hungary, Israel, Italy, Kyrgyzstan); **Convention No. 79** (Azerbaijan, Belarus, Cuba, Israel, Italy, Kyrgyzstan); **Convention No. 90** (Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Cuba, Cyprus, Czech Republic, Guinea, Italy); **Convention No. 123** (Australia, Czech Republic, Ecuador, Uganda); **Convention No. 124** (Austria, Azerbaijan, Belarus, Bolivia, Czech Republic, Ecuador, Gabon, Kyrgyzstan); **Convention No. 138** (Albania, Angola, Austria, Azerbaijan, Bahamas, Barbados, Belarus, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Botswana, Burkina Faso, Cambodia, Cameroon, Central African Republic, Chile, China, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Congo, Croatia, Cuba, Cyprus, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Georgia, Grenada, Guatemala, Guinea, Guyana, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Lesotho, Luxembourg, Madagascar, Malawi, Malta, Netherlands: Aruba, Niger, Sri Lanka, Sudan, Swaziland, United Republic of Tanzania, Togo, Uruguay); **Convention No. 182** (Albania, Algeria, Angola, Argentina, Austria, Bahamas, Bahrain, Barbados, Belarus, Belgium, Belize, Bolivia, Botswana, Burkina Faso, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guyana, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Republic of Korea, Lesotho, Luxembourg, Malawi, Malta, Niger, Oman, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Senegal, Sri Lanka, Sudan, Sweden, Syrian Arab Republic, Togo, Trinidad and Tobago, United Kingdom: Guernsey, Uruguay, Viet Nam).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 5** (Czech Republic, France: French Polynesia, France: New Caledonia, France: Réunion, France: St. Pierre and Miquelon, Gabon); **Convention No. 6** (Austria); **Convention No. 10** (Czech Republic, France: French Guiana, France: New Caledonia, Gabon); **Convention No. 33** (France: New Caledonia, Gabon); **Convention No. 77** (Belgium, France: French Polynesia); **Convention No. 78** (France: French Polynesia, Greece); **Convention No. 90** (Argentina, France); **Convention No. 123** (Cameroon).

Equality of Opportunity and Treatment

General observation

Equal Remuneration Convention, 1951 (No. 100)

1. The Committee notes that while equal remuneration for men and women for work of equal value is a principle that is widely accepted, the scope of the concept and its application in practice can be more difficult to grasp and apply. Unequal remuneration is often due to subtle, chronic problems that are difficult to overcome without a clear understanding of the concepts and their relevance to the workplace and society in general. The Committee notes that difficulties in applying the Convention in law and in practice result in particular from a lack of understanding of the scope and implications of the concept of “work of equal value”. This concept is a cornerstone of the Convention and lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. The Committee, therefore, considers it necessary to underscore the importance and clarify the meaning of “work of equal value”.

2. The Committee notes that historical attitudes towards the role of women in society, along with stereotypical assumptions regarding women’s aspirations, preferences, capabilities and “suitability” for certain jobs, have contributed to occupational sex segregation in the labour market. As a result, certain jobs are held predominantly or exclusively by women and others by men. These views and attitudes also tend to result in the undervaluation of “female jobs” in comparison with those of men who are performing different work and using different skills, when determining wage rates.

3. In order to address such occupational segregation, where men and women often perform different jobs, under different conditions, and even in different establishments, the concept of “work of equal value” is essential, as it permits a broad scope of comparison. “Work of equal value” includes but goes beyond equal remuneration for “equal”, the “same” or “similar” work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value. Furthermore, the application of the Convention’s principle is not limited to comparisons between men and women in the same establishment or enterprise. It allows for a much broader comparison to be made between jobs performed by men and women in different places or enterprises, or between different employers.

4. In its examination of governments’ reports submitted under the Convention, the Committee has been pleased to note cases in which the principle has been applied to compare the remuneration received by men and women engaged in different occupations, such as wardens in sheltered accommodation for the elderly (predominantly women), and security guards in office premises (predominately men); or school meal supervisors (predominately women) and garden and park supervisors (predominately men). Comparing the value of the work done in such occupations, which may involve different types of qualifications, skills, responsibilities or working conditions but which is nevertheless work of equal value overall, is essential in order to eliminate pay discrimination which results from the failure to recognize the value of work performed by men and women free from gender bias.

5. In order to establish whether different jobs are of equal value, there has to be an examination of the respective tasks involved. This examination must be undertaken on the basis of entirely objective and non-discriminatory criteria to avoid an assessment being tainted by gender bias. While the Convention does not prescribe any specific method for such an examination, it does presuppose the use of appropriate techniques for objective job evaluation (*Article 3*). For the purpose of ensuring gender equality in the determination of remuneration, analytical methods of job evaluation have been found to be the most effective. Such methods analyse and classify jobs on the basis of objective factors relating to the jobs to be compared such as skill, effort, and responsibilities or working conditions (see paragraph 141 of the 1986 General Survey on equal remuneration). Whatever methods are used for the objective evaluation of jobs, particular care must be taken to ensure that they are free from gender bias: it is important to ensure that the selection of factors for comparison, the weighting of such factors and the actual comparison carried out, are not inherently discriminatory. Often skills considered to be “female”, such as manual dexterity and those required in caring professions, are undervalued or even overlooked, in comparison with traditionally “male” skills, such as heavy lifting.

6. Noting that several countries still retain legal provisions that are narrower than the principle as laid down in the Convention, as they do not give expression to the concept of “work of equal value”, and that such provisions hinder progress in eradicating gender-based pay discrimination against women at work, the Committee urges the governments of those countries to take the necessary steps to amend their legislation. Such legislation should not only provide for equal remuneration for equal, the same or similar work, but also prohibit pay discrimination that occurs in situations where men and women perform different work that is nevertheless of equal value.

7. The Committee urges governments, in cooperation with workers’ and employers’ organizations, to promote, develop and implement practical approaches and methods for the objective evaluation of jobs with a view to effectively applying the principle of equal remuneration for men and women for work of equal value in the public and private sectors. Measures for the objective evaluation of jobs can be taken at the enterprise, sectoral or national level, in the context of collective bargaining, as well as through national wage-fixing mechanisms. The Committee stresses the importance of training on this matter for government officials, as well as workers, employees and their organizations.

8. The Committee underlines the important role of judges and labour inspectors in ensuring the application of the principle of equal remuneration for men and women for work of equal value. Noting that in a number of countries certain measures have been taken to assist judges and labour inspectors to fulfil this role, including providing training regarding the concept of “work of equal value” and how to apply it in practice, the Committee encourages all governments to consider taking such action.

9. Finally, the Committee recalls that ILO technical assistance regarding these matters can be requested.

Afghanistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

Articles 1 to 3 of the Convention. Application in law. The Committee recalls that section 9 of the Labour Code stipulates “equal wages for equal work”, whereas the Convention encompasses the broader principle of equal remuneration for men and women for work of equal value. Noting that the Government is taking measures to adopt a new Labour Code, the Committee hopes that the Government will make every effort to ensure that the Convention’s principle is fully reflected in the new legislation, requiring not only equal remuneration for the same or equal work, but also for work of equal value. The Committee also urges the Government to ensure that the principle of equal remuneration applies to all elements of remuneration as defined in *Article 1(a)* of the Convention. ***Recalling that the Government is under an obligation to ensure the application of the Convention in the public sector, the Committee asks the Government to ensure that a method for the determination of public sector remuneration will be put in place that takes the principle of the Convention fully into account, including through the use of objective job evaluation based on the content of the work performed. The Committee asks the Government to take all necessary measures to ensure that the new Labour Code includes provisions fully reflecting the principle of equal remuneration for men and women for work of equal value and to keep the Committee informed of the progress made in this regard.***

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

1. The Committee notes the Government’s report and the comments from various trade unions attached to it, including comments from the All Women Union of Afghanistan, the All Afghanistan Federation of Trade Unions, the Workers and Employers National Union of Afghanistan, and the Central Council National Union Labour of Afghanistan. These trade unions state that, while discrimination was prohibited by law, employment discrimination based on sex, ethnic origin, place of origin or political considerations continued to occur, including in public sector employment. The Committee also notes that, according to the 2005 report of the United Nations High Commissioner for Human Rights on the situation of human rights in Afghanistan, the main reasons for high unemployment in Afghanistan are discrimination based on gender, disability and ethnic grounds, lack of job opportunities or economic activities and the lack of required skills and qualifications (A/60/343, 9 September 2005, paragraph 59).

2. *Application in law.* The Committee notes that the 2006 draft Labour Code contains a number of provisions concerning the principle of non-discrimination. Such provisions, once adopted, will be an important basis for moving towards the elimination of discrimination and the promotion of equality. The Committee encourages the Government to continue its efforts to ensure that the new Labour Code will prohibit discrimination with respect to all areas of employment and occupation, particularly in respect of vocational training and guidance, recruitment, and terms and conditions of employment, and that the legislation will prohibit discrimination based on all the grounds listed in *Article 1(1)(a)* of the Convention, i.e. race, colour, sex, religion, political opinion, national extraction and social origin. Noting that several trade unions indicated that they had not been able to express their views on the draft legislation, the Committee recalls that the Government is required under *Article 3(a)* of the Convention to seek the cooperation of workers’ and employers’ organizations in promoting acceptance and observance of the national policy to promote equality of opportunity and treatment to be adopted and implemented under the Convention. ***The Committee requests the Government to keep it informed of the progress made in adopting new legal provisions applying the Convention and on the manner in which the cooperation of workers’ and employers’ organizations has been sought in this process. It also requests the Government to indicate the measures taken to repeal all laws, regulations and instructions restricting the access of women and girls to education and employment.***

3. *Application in practice.* The Committee recalls that the Convention is intended to promote equality of opportunity and treatment in law and in practice. ***Having acknowledged the legislative efforts under way, the Committee thus urges the Government to take measures to promote, in practice, equality of opportunity and treatment of men and women, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin, or any other ground determined under Article 1(1)(b). Drawing the Government’s attention to the provisions of Article 3(d) and (e), the Committee urges the Government to take appropriate steps with a view to eliminating and preventing discrimination in respect of employment under the direct control of national authorities and in the activities of vocational guidance and training, as well as placement services. In this regard, the Committee considers that it would be useful to undertake training and awareness-raising activities concerning non-discrimination and equality for public officials responsible for applying, monitoring and enforcing labour legislation, as well as workers’ and employers’***

representatives. The Government is also encouraged to monitor, on a continuing basis, the level of participation of men and women in the different areas of vocational training and employment. The Committee requests the Government to provide information on any measures taken or envisaged to ensure that the Convention and national non-discrimination provisions are applied in practice.

Algeria

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)

1. The Committee notes that for several years now, it has been raising similar issues in its comments and that, again this year, the Government's brief report does not adequately reply to the Committee's previous requests. In light of this fact, the Committee would like to offer some additional guidance to encourage the Government to prepare reports in the future that will allow the Committee to make a full and fair assessment of the progress made in the application of the Convention.

2. *Article 2 of the Convention. Principle of equal remuneration.* The Committee notes that the Government continues to repeat that the concept of equal remuneration for work of equal value is enshrined in law and that there is no inequality between men and women since remuneration is attached to jobs, regardless of sex. The Committee wishes to remind the Government that, although forbidding sex-based wage classifications is an important aspect of equal remuneration, the principle of equal remuneration for work of equal value as expressed in the Convention extends beyond cases where work is performed in the same establishment, as well as beyond jobs performed by both sexes. In this respect, simply because men and women are paid the same for doing the same work it does not mean that inequality in remuneration does not exist. Discrimination may still arise out of the fact that women are more heavily concentrated in certain jobs and in certain sectors of activity where work is poorly paid in relation to the value of the work performed. For this reason the establishment of objective evaluation systems is important, particularly for occupations in which women predominate compared with those in which men predominate, in order to identify and remedy cases of wage discrimination. This is also why, in applying the principle of the Convention, the comparison between jobs performed by men and women should be as wide as possible, even comparing jobs in different places or enterprises or between different employers. ***The Committee therefore asks the Government to provide information on the measures taken or envisaged to examine remuneration systematically and to compare those jobs in which men predominate with those in which women predominate, in order to identify and correct instances of pay discrimination.***

3. In light of the above, the Committee recalls the importance of gathering data on the position and pay of men and women in all job categories within and between the various sectors in order to address fully the continuing remuneration gap between men and women based on sex. The Committee notes in this regard that the Government is collecting wage statistics disaggregated by sex as part of its national survey on wages in 2006. The Committee again wishes to draw the Government's attention to the guidance set out in its general observation of 1998, listing the statistical elements that governments are encouraged to gather in order to provide the fullest possible information to help the Committee assess the application of the Convention. It further recalls that the Government may request, if need be, the technical assistance of the Office regarding the collection of sex-disaggregated statistics. ***The Committee looks forward to receiving the results of the 2006 national survey on wages and welcomes any additional information including research documentation and reports related to this work.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

The Committee notes that the Government's brief report along with the supplementary document provided by the Ministry of Labour and Social Security do not fully respond to the questions raised in the Committee's earlier comments. The Committee hopes that the report supplied to the Committee for examination at its next session will contain full information on the matters raised in its previous observation.

1. *Discrimination on the basis of religion.* The Committee noted in its previous comments the Government's confirmation that constitutional articles referring to fundamental rights of the population, read together, guarantee protection against religious discrimination. ***Noting that the Government has yet to provide specific information on these provisions, the Committee asks for copies of all judicial decisions concerning these provisions along with information on the measures taken or envisaged to prevent and eliminate religious discrimination in employment and occupation.***

2. *Discrimination on the basis of sex.* The Committee notes the promotional events undertaken by the President of Algeria, as well as by the General Union of Algerian Workers, aimed at fighting discrimination and advancing the role of women in society and the economy. The Committee recalls the Government's earlier statement that, in practice, women were still confronted with discrimination in employment resulting from stereotypes that exist regarding a woman's place in society. It also recalls that these attitudes were reflected in the lack of access to non-traditional vocational training opportunities for girls and women, further hindering equality of access to employment. Noting that women still accounted for only 15 per cent of the workforce in 2005, the Committee continues to express its concern regarding the persistence of strong stereotypical attitudes with respect to the roles and responsibilities of women and men in the family and in society

and their serious impact on the employment and vocational training opportunities of women in practice. *The Committee, therefore, again urges the Government to take urgent and proactive measures to further its national policy to promote equality of opportunity and treatment of women in respect of employment and occupation, including efforts to address stereotypical attitudes, and to keep the Committee informed of any progress in this regard. It also requests the Government to provide information on measures taken or envisaged to facilitate and encourage access of women and girls to more diversified vocational training opportunities, including those leading to traditionally male occupations, so as to afford them a greater chance of entry into the labour market.*

The Committee is raising other points in a request addressed directly to the Government.

Angola

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1976)

The Committee notes with regret that the Government's report fails to respond to the Committee's previous direct requests. In recent years, the Government's reports have not provided sufficient information to enable the Committee to assess the progress made with regard to the practical application of the Convention. *The Committee, therefore, urges the Government to supply the information requested and to make every effort to take the necessary action in the near future.*

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

Argentina

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1968)

1. The Committee notes with interest that Decree No. 1086 of 7 September 2005, published as a supplement in the first section of *Official Bulletin* No. 30747 of 27 September 2005, approved the document entitled "Towards a National Anti-Discrimination Plan – Discrimination in Argentina. Analysis and Proposals". According to section 1 of the Decree, this document lays down the strategic outline of the National Anti-Discrimination Plan. The Committee also notes that section 2 entrusts the National Institute against Discrimination, Xenophobia and Racism (INADI) with the task of coordinating the implementation of the proposals set forth in the document. The Committee notes that the document in question contains an analysis of discrimination based on the criteria in the Convention.

2. *The Committee requests the Government to ensure, when preparing the definitive version of the National Anti-Discrimination Plan, that it includes policies on equal opportunity and treatment in employment and occupation, with a view to eliminating any discrimination in this regard. The Committee would also be grateful if the Government would provide information on how employers' and workers' organizations have cooperated in the preparation and implementation of these policies, in particular through the Tripartite Commission on Equality of Treatment and Opportunity between Men and Women in the World of Work (CTIO), formally established on 15 March 2005. The Committee also asks the Government to inform it of the progress made in respect of the adoption of the National Anti-Discrimination Plan.*

The Committee is raising other points in a request addressed directly to the Government.

Australia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)

Articles 1 and 2 of the Convention. The male-female earnings differential. The Committee notes the comments submitted by the Australian Council of Trade Unions (ACTU) stating that the move away from award regulation to workplace-based regulation in the setting of wages – and more specifically the advent of Australian Workplace Agreements (AWAs) – is associated with the lack of recent progress in narrowing the pay gap between men and women. According to the Government's report, the policy of encouraging AWAs directly benefits working Australian women, who are paid at a higher rate on AWAs than women whose wages are determined by collective agreement. The ACTU points out, however, that in 2004, the gap for non-managerial employees was in fact widest between men and women working under AWAs, whereas there was no gap between workers whose remuneration had been set under the award system. The ACTU alleges that the Government's plan to further reduce the award system will negate many of the pay equity benefits already achieved. It also adds that AWAs are less likely to contain family-friendly provisions compared with collective agreements. Consequently, the use of AWAs has a particularly adverse effect in reducing non-wage benefits that might enable workers (predominantly women) to reconcile work and family responsibilities. In addition, the Committee notes from the WiSER report to the Human Rights and Equal Opportunity Commission (HREOC) on women's pay and workplace conditions that, under AWAs, the trading off of entitlements for higher wages may become increasingly common making it difficult to resort to the wage alone as an adequate measure of remuneration which, under the Convention, includes the basic wage and any additional emoluments payable to the worker. *Given the considerable*

growth in the use of AWAs including in female-dominated sectors, the Committee asks the Government to provide detailed information in its next report on the wages and benefits negotiated under these agreements, including with regard to family-friendly provisions, disaggregated by sex and sector. Please also include information on the AWAs' practical impact on the existing remuneration gap between men and women workers.

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1973)

Recalling its previous comments on the disproportionately high unemployment rate of indigenous Australians compared with the non-indigenous population, the Committee notes from the Government's report that more indigenous jobseekers benefit from Australia's mainstream employment services (Job Network) than from all the programmes tailored to indigenous peoples combined under the Indigenous Employment Policy. In this context, the Committee notes from the Social Justice Report, 2005, that the Government abolished the Aboriginal and Torres Strait Islander Commission (ATSIC) and transferred responsibility over policy-making and programme delivery to existing government departments and agencies. It notes in this regard the concerns expressed by the Committee on the Elimination of Racial Discrimination (CERD/C/AUS/CO/14 of 14 April 2005) that the abolition of ATSIC will reduce the participation of indigenous peoples in decision-making and alter the Government's capacity to address the full range of issues relating to indigenous peoples. *The Committee, therefore, asks the Government to provide further details on the impact of this reform with respect to promoting equal access to education, training and employment of indigenous Australians. It further asks the Government to continue providing statistics on employment rates for indigenous peoples to allow the Committee to measure progress in this regard. Please also keep the Committee informed of the deliberations and outcome of the ongoing inquiry into indigenous employment by the Standing Committee on Aboriginal and Torres Strait Islander Affairs.*

The Committee is raising other matters in a request addressed directly to the Government.

Bangladesh

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1972)

1. *Articles 1 and 2 of the Convention. Prohibition of discrimination.* The Committee recalls its previous comments to the effect that, beyond the Constitution, no legislative ban on discrimination exists in conformity with the Convention and concerning the importance of including such prohibition in the Labour Code. In this regard, the Committee notes the Government's statement that it had addressed the issue properly in the proposed Labour Code. *The Committee trusts that the new Labour Code will include a specific prohibition of discrimination in accordance with the Convention and asks the Government to provide the text upon adoption. It reminds the Government of the possibility of seeking technical advice from the ILO on this matter, including obtaining comments on the proposed Labour Code from the perspective of international labour standards and comparative law and practice.*

2. *Gender equality in employment and occupation.* The Committee notes the Government's statement that it remained concerned about the low participation of women in education and employment. It also notes that the 2005 United Nations Common Country Assessment and Development Assistance Framework pay particular attention to the situation of women in these areas. However, the Committee also notes that the Government's report contains very little information on the measures actually taken by the Government to promote and ensure respect, in law and in practice, for the principle of equality of opportunity and treatment in employment and occupation. *Given the persistence and magnitude of gender-based inequalities in employment and occupation, the Committee requests the Government to provide more detailed information on the specific action taken to eliminate discrimination against women and to promote equality in respect of their access to education, including vocational training, as well as their equal access to employment and the widest range of occupations and sectors.*

3. *Sexual harassment.* The Committee previously noted the concerns expressed by the United Nations Committee on the Elimination of Discrimination against Women in July 2004 over the occurrence of widespread violence against women, including sexual harassment at work. In this context, it requested the Government to provide information on the practical application of the Suppression of Violence against Women and Children Act 2000 and on any other measures taken to address sexual harassment in the context of work. The Committee notes that, in reply, the Government merely states that no allegations concerning sexual harassment had been received. The Committee considers such an absence of complaints concerning sexual harassment at work to be a matter of serious concern. As the existence of widespread violence and harassment against women in the country is well documented and recognized, the Committee considers that the absence of complaints is likely to be due to the lack of effective mechanisms to address it. *The Committee, therefore, requests the Government to urgently take active measures to address the issue of sexual harassment in the context of work through appropriate laws, policies and mechanisms, and to seek the cooperation of workers' and employers' organizations in this regard. The Government is requested to keep the Committee informed of any measures taken or envisaged.*

The Committee is raising other points in a request addressed directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 96th Session and to report in detail in 2007.]

Bolivia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1977)***

1. In its previous observation, the Committee requested the Government to amend section 3 of the General Labour Act, under which the proportion of female staff may not exceed 45 per cent in enterprises and establishments which, by their nature, do not require the use of a larger proportion of women workers. The Committee also requested that the amendment to the Labour Act take into account paragraph 5 of the ILO resolution on equal opportunities and equal treatment for men and women in employment, adopted in 1985, since this would provide an opportunity to re-examine, in the light of up to date scientific knowledge and technical changes, all protective legislation applying solely to women with a view to revising and repealing it, as appropriate, in consultation with the social partners and women workers, taking into account the measures aimed at promoting equality for men and women in employment. The Committee notes that, according to the Government, the current social and political conditions make any amendment to the General Labour Act impossible, mainly because of the workers themselves, who, fearing that any reform will open the way to the “flexibilization of work”, prefer to oppose any change. The Government indicates that although the General Labour Act Bill, prepared with the technical assistance of the ILO, is ready, it has not yet been adopted for the abovementioned reasons. The Government also indicates that the legal provision in question has fallen into disuse and is not applied in practice, and that the amendment of this section will therefore be a mere formality to adapt the provision to the reality of the situation in Bolivia. *Noting the above, the Committee hopes that the Government will consider at the earliest opportunity bringing the legislation into line with the practice and asks to be kept informed in this regard.*

2. The Committee notes with interest the 2004–07 National Public Policies Plan for the full exercise of women’s rights, prepared by the Vice-Ministry of Women, approved by Ministerial Decision No. 006 of 24 January 2005 and authenticated by Supreme Decree No. 28035 of 7 March 2005. In the economic dimension, the Plan identifies a context of ethnic poverty and discrimination common to indigenous men and women, natives and farmers, as well as gender-related elements of discrimination due to the sexual division of labour, the occupational pattern by gender and the segmentation and concentration of the female labour force, all of which widen the gender inequity gap in the economic field. The Plan puts forward a series of policies to eliminate discrimination, including institutional, training-related, economic and legal measures. *The Committee requests the Government to keep it informed of the measures taken to apply the Plan and of their impact in practice. The Committee, noting that one of the development objectives of the Plan is to “amend laws that are sources of inequity for women and increase timely and effective access for women to the justice system, within the framework of the new Political Constitution of the State, until 2007”, would be grateful if the Government would keep it informed of any action taken to meet the abovementioned objective and of any progress made. The Committee also hopes that by amending the legislation to meet this objective, the Government will make an effort to achieve consensus so as to amend section 3 of the General Labour Act in the manner indicated by the Committee and that it will keep the Committee informed in this respect.*

The Committee is raising other points in a request addressed directly to the Government.

Bosnia and Herzegovina

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1993)***

1. *Legislative developments on gender equality.* The Committee noted previously the adoption of the Law on Gender Equality (No. 56/03), which takes a comprehensive approach through prohibiting gender discrimination at all levels of society, imposing a positive duty to prevent sexual harassment and gender discrimination, and envisaging policies and programmes to promote equality. The Committee had also noted that the Law on Gender Equality provides that collective agreements and entity legislation are to be brought into conformity with its provisions. The Committee notes that the Government sought ILO assistance in this regard and that in May 2006, an ILO workshop on the harmonization of entity legislation with the Gender Equality Law and implementation of the Gender Equality Law was held in Sarajevo. *The Committee again asks the Government to provide information regarding the implementation of the Law on Gender Equality, including any policies and programmes established to ensure non-discrimination and promote equality in employment and occupation. The Committee asks the Government to provide information on any progress achieved in harmonizing the entity legislation as well as collective agreements with the Law on Gender Equality, including concrete action taken to follow-up on the conclusions of the ILO workshop. The Committee also requests information on the status of the gender action plan.*

2. *Discrimination on the grounds of national extraction or religious belief.* In its previous comments, the Committee recalled the conclusions of the Governing Body, from November 1999, that workers had been dismissed from two undertakings on the grounds of national extraction or religious belief (the representation made pursuant to article 24 of the ILO Constitution by the Union of Autonomous Trade Unions of Bosnia and Herzegovina (USIBH) and the Union of Metalworkers (SM)). The Committee also noted the adoption of the legislation designed to provide compensation to workers who lost their employment during the civil war. The Committee also recalled the communications of the USIBH and the trade union organization of the “Ljubija” iron mine concerning the dismissal by another undertaking during the civil war on the ground of the national extraction of the workers. The Committee notes the Government’s statement that in the case of one of the factories (Aluminij), the Government, in agreement with the management of the company sent out a public invitation to all the dismissed workers to report for work; however, at the request of the trade union, the invitation was temporarily withdrawn until the privatization process was completed. In the case of the Ljubija mine, the Government recalls that pursuant to the legislation, the dismissed workers are entitled to severance pay, and that a Commission has been established to deal with individual applications for severance pay. The Government states further that it is making efforts to secure the funds to cover the severance pay. The Government notes that a report regarding the exercise of the rights of these workers was to be discussed in June 2006 by the National Assembly. ***Noting that the Government is continuing to make efforts to resolve these matters, the Committee requests the Government to provide information on progress achieved, including statistics available on the number of workers who have benefited from the legislative provisions regarding compensation, and those who have been reinstated. The Committee also requests information on the outcome of the discussion by the National Assembly on the report on this matter, and any action taken or envisaged as a result thereof.***

The Committee is raising other matters in a request addressed directly to the Government.

Brazil

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)

1. *Article 1 of the Convention. Discrimination based on political opinion.* The Committee notes that the Government’s report contains no reply to the communication received from the *Sindicato de Profesores de Itajaí y Región*, sent to the Government on 15 July 2004. The communication refers to the dismissal of three teachers of journalism at the University of Valle de Itajaí (UNIVALI), allegedly because of their political opinions. Attached to the communication is a complaint filed by the abovementioned union on 3 July 2003 with the Office of the Procurator for Labour of the State of Santa Catarina alleging that the grounds for dismissal were political and ideological rather than economic. According to the complaint, the dismissal of two of the teachers was linked to criticism they had levelled at the university and to their involvement in activities in marginal districts and in alternative and critical programmes, and, in one instance, to positions taken in the 2002 electoral campaign. It is also stated that the teachers were seeking to set up a journalism course in which freedom of thought and expression and involvement with society would be three basic tenets for the training of future journalists, such training being unthinkable unless it allowed the right to question. ***The Committee requests the Government to inform it of the outcome of the complaints, and to provide information on the machinery in place and the measures adopted or envisaged to prevent the occurrence of discrimination in employment and occupation based on political opinions.***

2. *Article 2. National policy.* The Committee notes with interest that Brazil’s Decent Work Country Programme, launched by the Ministry of Labour, includes effective application of the Convention among its objectives. ***Please provide information on the measures taken to achieve this objective and their impact.***

3. The Committee also notes that in December 2004, the National Congress approved amendment No. 45 to the Constitution under which international human rights treaties approved by three-fifths of the votes cast in both chambers shall rank on a par with the Constitution. It also notes that pursuant to Law No. 10683, on 28 May 2003 a Special Secretariat for Policies for Women and a Special Secretariat for Policies to Promote Racial Equality were created within the Office of the President of the Republic. Act No. 23678 of 23 May 2003 established a Special Secretariat of the Presidency of the Republic for Policies to Promote Racial Equality, and a decree of 23 August 2004 established a tripartite committee under the Ministry of Labour and Employment to serve as an advisory body, with a view to promoting public policy on equal opportunities and treatment and combating all forms of discrimination based on sex and race in employment and occupation. Furthermore, the Committee notes with interest that Decree No. 5390 of 8 March 2005 approved the National Plan for Policies for Women (PNPM). ***The Committee requests the Government to provide information on the practical effect given to the legislation and the bodies established pursuant thereto, and their impact.***

The Committee is addressing a request on other matters directly to the Government.

Bulgaria

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) **(ratification: 1960)**

1. *Enforcement of legislation.* Recalling its previous comments concerning the adoption and implementation of the 2003 Act on Protection against Discrimination, the Committee notes that the Commission for Protection against Discrimination provided for under the Act was established in November 2005 and started to deal with cases concerning discrimination in training, education and employment. The Committee also notes the view expressed in the European Commission's May 2006 Monitoring Report that the Commission was not adequately resourced and not yet fully operational. With regard to judicial enforcement of non-discrimination legislation, the Committee understands that a number of discrimination cases have been decided by the courts more recently. The Committee emphasizes that effective complaint procedures are crucial to eliminate discrimination in employment and occupation in practice. ***In order to enable it to continue to assess the practical application of the Convention, the Committee requests the Government to provide information on the following: (a) the measures taken to ensure that victims of discrimination in education, training and employment have effective access to the procedures of the Commission for Protection against Discrimination; (b) the number, nature and outcome of the cases dealt with by the Commission; (c) any action taken by the Commission to raise awareness among workers and employers of their rights and obligations under the national anti-discrimination legislation; and (d) examples of court cases concerning provisions of the Act on Protection against Discrimination, the Labour Code or other laws relating to discrimination.***

2. *Equality of opportunity and treatment irrespective of national extraction or religion. Access to education, training, and employment.* Over a number of years the Committee has been expressing concern about persisting labour market inequalities along ethnic lines and reports of discriminatory practices against members of ethnic minorities, particularly the Roma. In this context, the Committee urged the Government to provide information on any evaluation carried out to assess the effectiveness of the various programmes to promote equality of opportunity and treatment of the Roma and Bulgarians of Turkish extraction in respect of access to training, education and employment. The Committee also requested information on the manner in which the employment situation of these minority groups is monitored.

3. With regard to the Roma, the Committee notes the statistical information provided by the Government concerning the numbers of teachers that received special training and the establishment of assistant teachers' posts. Several schools are now "integrated" and a number of pupils are taught in Turkish and Romani. The Government's report further contains detailed information on the content and implementation of projects for the integration of the Roma community under the PHARE programme of the European Union, including statistical information concerning training provided to public officials with a view to promoting access of Roma to education, training and employment in public administration and the police. A number of Roma attended special courses to prepare them for public administration jobs. The Committee notes the Government's indication that due to the regulations in force, the Employment Offices do not collect information on the ethnic origin of unemployed persons and, as a consequence, no figures could be provided on the number of persons of Roma origin that were included in labour market programmes to improve employability.

4. While noting this information, the Committee is concerned about the apparent inability of the Government to assess the impact of its programmes to address the continuing difficulties of ethnic minorities in accessing and maintaining employment. ***The Committee, therefore, urges the Government to indicate in its next report, any measures taken or envisaged to assess the impact of the special measures taken to promote equality of opportunity in employment and occupation of ethnic minority groups which are in a vulnerable socio-economic situation. The Committee also requests the Government to supply information on the actual employment situation of persons of Roma or Turkish extraction and the extent to which such persons obtained jobs in the public and private sectors, after having benefited from skills training or other assistance. The Committee also requests the Government to provide information on the progress made in increasing the number of integrated schools, including the number of Roma children attending such schools.***

5. The Committee notes that the Government adopted a National Action Plan for the Decade of Roma Inclusion (2005–15) in April 2005, which, inter alia, identifies education and employment as priority areas for action. ***The Committee requests the Government to indicate in its next report the concrete measures implemented under the National Action Plan aimed at promoting and ensuring equality of opportunity and treatment in employment and occupation of the Roma, as well as the results achieved.***

6. *Awareness raising.* Recalling its request to the Government to provide information on any concrete and proactive measures taken to raise public awareness and promote respect and tolerance for ethnic minorities, the Committee notes that a number of awareness-raising activities took place in the context of the Decade for Roma Inclusion and that the Government intends to create Roma Culture Centres which are expected to play an important role to promote respect for ethnic diversity. ***The Committee requests the Government to continue to provide information on the concrete activities carried out to promote respect and tolerance for ethnic minorities, particularly in the context of work, including information on any efforts made to seek the cooperation of workers' and employers' organizations in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Burkina Faso

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

Articles 1(b) and 2 of the Convention. Giving legal expression to the principle of equal remuneration for men and women for work of equal value. The Committee notes section 175 of the Labour Code (Act No. 33-2004/AN of 14 September 2004), which provides that “where there are equal working conditions, professional qualifications and output, the salary shall be equal for all workers no matter what their origin, sex, age or status. When setting the rates of remuneration, the principle of equal remuneration for men and women for work of equal value shall be respected”. While welcoming the explicit reference to the principle of the Convention in the Labour Code, the Committee recalls that the Convention also applies to situations where men and women work under different working conditions or have different qualifications, but nevertheless perform jobs of equal value. The Committee notes the Government’s indication that the principle of the Convention is fully applied in practice through, for example, the prohibition of discrimination in article 41 of the Inter-Occupational Collective Agreement of 9 July 1974. ***The Committee asks the Government, however, to provide information beyond the legal expression of the principle of equal remuneration, demonstrating how section 175 of the Labour Code is applied in practice. Such information should include the manner in which the labour inspectorate is ensuring the application of the relevant legislation as well as information on any cases dealt with by the courts involving the application of section 175 of the Labour Code.***

The Committee is raising other points in a request addressed directly to the Government.

Burundi

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1993)

1. *Discrimination based on race, colour or national extraction.* The Committee recalls the communication received from the International Confederation of Free Trade Unions (ICFTU) dated 26 March 2003. According to the ICFTU, discrimination between two ethnic groups, the Hutu and Tutsi, is persistent and is manifest in terms of employment. In its response of 5 May 2004, the Government states that the authorities make every effort to prevent discrimination based on ethnic origin. In its report, the Government states that the new Constitution approved by referendum on 28 February 2005 prohibits discrimination based, inter alia, on an individual’s origin, race, ethnicity, sex, colour, language (article 22). The Government asserts that the Constitution’s provisions are respected in practice. The Committee also notes the Government’s recognition of the need to assist disadvantaged groups, such as the Batwa, to remedy existing inequalities. The Committee notes the non-discrimination provisions of the new Constitution with interest. ***It requests the Government to provide detailed information in its next report on the specific measures taken to prevent ethnic discrimination and to promote equality in employment and occupation irrespective of ethnic origin, and to indicate any special measure taken to address the inequalities faced by particularly disadvantaged groups such as the Batwa.***

2. *Public service.* The Committee notes with satisfaction the adoption of Act No. 1/28 of 23 August 2006 regarding the general status of public servants, and, in particular, article 6(1) which guarantees equality of opportunity and treatment for public servants without distinction, exclusion or preference based on religion, gender, political opinion, union activity, social or ethnic origin as well as real or perceived HIV status. ***The Committee asks the Government to provide information in its next report on the practical application of article 6(1) of the Act, including information on the number and outcome of complaints brought under this provision. Please also supply information on any measures taken to promote and ensure equality of opportunity in respect of access to employment in the public service.***

The Committee is raising other points in a request addressed directly to the Government.

Cameroon

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1970)

1. The Committee notes the communication from the General Union of Cameroon Workers (UGCT) dated 30 August 2005 regarding the application of the principle of the Convention by means of collective agreements, and the Government’s reply thereto.

2. *Article 2 of the Convention. Collective agreements.* The Committee had previously commented on the discriminatory provisions in the collective agreement for CAMRAIL, which limits the granting of transport facilities to the “wife and children” of the employee (section 70(a) and (b)). It had also noted that section 37(1) of the collective agreement for dockworkers provides that equal wages shall be paid only “in equal conditions of work and professional ability” without distinction on the basis of sex. With regard to the CAMRAIL agreement, the Committee notes that the Government continues to state that the additional allowances and benefits in the collective agreement are only granted to the wife and children of employees, thereby excluding the husband of a female employee from such benefits. It also notes the comment of the UGCT stating that the relevant provisions in the CAMRAIL agreement have not been modified but that, in practice, equality of treatment exists. The Committee reminds the Government that the Convention covers all

components arising out of an employment relationship, and that the definition of remuneration as set out in *Article 1(a)* of the Convention includes not only the basic wage but also any additional emoluments payable directly or indirectly, whether in cash or in kind. Furthermore, noting again the absence of any information in the Government's report regarding the application of the principle of the Convention to dockworkers, the Committee must recall that the principle of equal remuneration under *Article 1(b)* goes beyond equal remuneration for work in equal conditions and also covers work that is different but nonetheless of equal value. *The Committee therefore asks the Government to provide in its next report concrete information on the measures taken, in cooperation with the social partners, to ensure that collective agreements such as those noted above are free from discriminatory provisions and gender-biased language with respect to remuneration and, in particular, additional allowances and benefits.*

3. Noting further that the Government's report has again provided little or no information with respect to the points raised in its previous comments, the Committee trusts that the Government will make every effort to collect and communicate, in its next report, the requested information in order to enable the Committee to assess the extent to which effect is given in law and in practice to the principle of equal remuneration for men and women for work of equal value.

The Committee is raising other points in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1988)***

1. Articles 1 and 2 of the Convention. National policy and legislation on equality. For a number of years the Committee has expressed its concern that the Preamble to the National Constitution, section 1(2) of the 1992 Labour Code, section 5 of the Public Service Statute and section 7 of the Act on education policy, do not prohibit discrimination on the grounds of race, colour and national extraction, as required by *Article 1(1)(a)* of the Convention. It has also repeatedly commented on the absence of a national policy on the promotion of equality of opportunity and treatment in respect of employment and occupation. The Committee regrets to note that the Government's report again does not provide new information on the finalization of the national policy on equality and continues to refer to the prohibition of discrimination as set out in the national legislation. In this regard, the Committee must remind the Government that while the affirmation of the principle of equality in national legislation represents an important step in the implementation of the Convention, it is not sufficient in itself to constitute a national policy within the meaning of *Article 2* of the Convention. Such a policy necessarily includes the adoption and implementation of concrete and proactive measures, such as educational and awareness-raising programmes, aimed at the promotion of equality in employment and occupation in respect of all seven grounds listed in the Convention.

2. The Committee trusts that the Government will take the necessary steps to ensure compliance with the Convention and urges the Government to provide detailed information with its next report on the following:

- (a) the measures envisaged or taken to harmonize the abovementioned legislation with the provisions of the Convention with a view to introducing an explicit definition and prohibition of discrimination on the seven grounds enumerated in Article 1(1) of the Convention, namely, race, colour, sex, religion, political opinion, national extraction and social origin;*
- (b) the progress made in adopting a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation;*
- (c) the activities undertaken by the National Labour Advisory Committee and the Committee responsible for monitoring and evaluating the application of ILO Conventions with respect to ensuring the full implementation of the present Convention.*

3. Noting that the Government's report has provided little or no information with respect to the points raised in its previous comments, the Committee trusts that the Government will make every effort to collect and communicate, in its next report, the requested information in order to enable the Committee to assess the implementation of the Convention and the progress made.

The Committee is raising other and related points in a request addressed directly to the Government.

Chad

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1966)***

1. The Committee notes the Government's report, but regrets that it does not adequately reply to the matters raised in its previous observation. The Committee, therefore, hopes that the Government will make every effort to provide full information on all the matters raised below in its next report.

2. Article 1(1)(a) of the Convention. Definition of discrimination. The Committee once again refers to its previous comment concerning article 32 of the Constitution, which states that no one can be discriminated against in their work on the grounds of origin, opinions, beliefs, sex or matrimonial situation, but does not include the other grounds of discrimination set out in *Article 1(1)(a)* of the Convention, particularly race and colour. The Committee notes the

statement of the Government that race and colour were never criteria for discrimination in Chad and that the legislator therefore simply omitted these terms in the Constitution. While stressing the equal importance of all grounds listed in the Convention, the Committee observes that the grounds of race and colour are of particular significance to promote and ensure equality of opportunity and treatment in employment and occupation in multi-ethnic societies. ***The Committee hopes that the Government will consider amending article 32 of the Constitution or adopting legislation so as to bring it fully into line with the Convention. Noting from the report that the regulations enforcing the Labour Code will take into account the grounds of race and colour, the Committee requests the Government to provide information on the progress made in this respect and to provide a copy of these regulations as soon as they are adopted.***

3. *Part V of the report form. Practical application and statistics.* The Committee notes from the Government's report that it has not recorded any instances of discrimination in legislation, administrative practice or in relations between persons or groups of persons. It also notes that there are no judicial decisions relevant to the Convention and that no practical difficulties have been encountered with respect to its application. The Committee reminds the Government that the absence of cases is not necessarily an indication that discrimination does not exist in practice. It also emphasises in this context that the collection of relevant data is important for both the Government and the Committee to evaluate the progress made in the application of the principle of the Convention. ***Noting that the National Office for the Promotion of Employment does not have statistics at its disposal regarding the application of the Convention, the Committee hopes the Government will make every effort to include information in its next report such as statistical data disaggregated by sex, race, ethnicity and religion in employment and occupation in the private and public sectors, along with any other information that may enable the Committee to assess how the provisions of the Convention are applied in practice.***

The Committee is raising other matters in a request addressed directly to the Government.

Chile

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1971)

1. *Article 3(b) of the Convention.* The Committee notes the adoption of Act No. 20034 of 5 July 2005 merging the ranks of male and female police officers, and the Ministry of Foreign Affairs' Decree No. 84 of 12 April 2005, adopting the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It also notes the Bill establishing legal machinery for complaints of arbitrary discrimination which allows claims to the reinstatement of rights and proper redress to be processed rapidly and which may be applied to the instances of discrimination at work set forth in the Convention. ***The Committee requests the Government to keep it informed of the Bill's progress.***

2. *Article 3(c).* The Committee has for many years asked the Government to amend section 349 of the Commercial Code which provides that, unless she married under the separate estate regime, a woman may not enter into a commercial partnership agreement without special permission from her husband. ***The Committee trusts that the Government will take the necessary steps to amend section 349 of the Commercial Code to ensure that women, regardless of their marital status and the matrimonial economic regime they and their husbands choose, no longer require prior authorization from their husbands to enter into commercial partnerships so that they may carry on their professional activities on an equal footing with men.***

3. *Discrimination on ground of political opinion.* For more than ten years, the Committee has carried on an exchange with the Government in which it has sought the express repeal of certain legislative decrees (Nos. 112 and 139 of 1973, 473 and 762 of 1974, 1321 and 1412 of 1976) allowing the rectors of Chilean universities broad discretion to abolish academic and administrative posts. The Committee has also sought the express repeal of section 55 of Legislative Decree No. 153 on the Legal Status of the University of Chile, and the Legal Status of the University of Santiago de Chile under which teachers, students and administrative staff may be expelled from or refused admission to these two institutions because of their political activities. In the course of that exchange, the Government has stressed that the abovementioned provisions do not apply as they have been tacitly repealed. The Committee noted in its comments of 2003 that the draft framework law submitted in 1997 for the preparation of new statutes for state universities establishing that such statutes may not include provisions that are discriminatory, had been shelved. ***The Committee therefore requests the Government once again to take the necessary steps to bring the national legislation into line with the provisions of the Convention.***

4. *Indigenous peoples.* In its comments of 2003, the Committee noted the results of the Sixth National Socio-economic Survey, 1996 (CASEN 96), sent by the Government, and observed that in terms of income distribution and average income there was a marked segregation of indigenous people from the non-indigenous population. It also noted that 67.9 per cent of indigenous women were not active, while the figure for men was 24.2 per cent. Furthermore, with regard to economic activity, the majority of indigenous workers were concentrated in agriculture and fishing (25 per cent) and in unskilled work (31.2 per cent). The illiteracy rate was 10 per cent for indigenous people as compared with 4.4 per cent for non-indigenous people. Some 54.9 per cent of young indigenous persons under 25 years of age attend an educational institution as compared with 61.6 per cent of non-indigenous young people. ***In view of these figures, the Committee asks once again the Government to supply information on the measures being taken to ensure equality of***

opportunity in employment and occupation for the country's indigenous peoples. It requests the Government to provide such information in its next report.

The Committee is raising other points in a request addressed directly to the Government.

Colombia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1963)

For several years, the Committee has been pointing out that the Substantive Labour Code ought to be amended in order to enshrine expressly the principle of equal remuneration for work of equal value and to bring the national legislation into line with the Convention. The Committee observes that section 5 of Act No. 823 of 10 July 2003 sets forth, as does section 143 of the abovementioned Code, a principle that is narrower than the one laid down in the Convention in that it refers to equal pay for "equal work" and not for "work of equal value", thus precluding any comparison of jobs that are different but that warrant equal remuneration because they are of equal value. *The Committee trusts that in its next report the Government will be in a position to provide information on the progress made in amending these two provisions to bring them into conformity with the principle enshrined in Article 2, paragraph 1, of the Convention.*

The Committee is also addressing a request on other matters directly to the Government.

Croatia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1991)

1. *Application in practice.* Recalling its previous observation concerning the practical implementation and enforcement of the Gender Equality Act and the Labour Act's equal treatment provisions, the Committee notes from the Government's report that in addition to the National Policy to Promote Gender Equality, the new National Plan of Action for Employment for 2005–08 provides for a series of measures to promote women's access to the labour market, including entrepreneurship. It also notes that a number of promotional activities concerning gender equality at work, including on sexual harassment, have been held during the reporting period. With regard to discrimination on the basis of race and national extraction, the Committee notes the adoption of the National Programme for the Roma in 2003 and the Ten-Year Plan of Action (2005–10) for the Inclusion of the Roma. The Committee further notes that the Government is planning measures to ensure access to effective legal remedies in case of infringements of the right to equality, while it has not yet provided information on any judicial or administrative decisions concerning equality of opportunity and treatment in employment and occupation.

2. The Committee welcomes these programmes and policies, as their implementation has the potential to make a positive contribution to the practical application of the Convention. *Noting that legal protection from discrimination through effective mechanisms and procedures is an important element of any national policy to promote and ensure equality of opportunity in employment and occupation, as envisaged by the Convention, the Committee urges the Government to take the necessary steps to ensure that anti-discrimination and equality provisions are widely known and understood and properly enforced. In order to be able to continue to assess the progress made in the application of the Convention, the Committee requests the Government to provide in its next report the following information:*

- (a) *the specific action taken under the National Policy to Promote Gender Equality, the National Plan of Action for Employment, the National Programme for the Roma and the Ten-Year Plan of Action for the Inclusion of the Roma to promote and ensure equality of opportunity and treatment in employment and occupation of women and persons of ethnic minority background, as well as the results achieved through such action;*
- (b) *the measures taken to increase awareness and understanding of the anti-discrimination and equality provisions among workers and employers, and competent public officials and judges, as well as information on the number, nature and outcomes of any cases dealt with by the courts or the Ombudsperson on Gender Equality on the basis of section 2-2(d) of the Labour Act or the relevant provisions of the Gender Equality Act; and*
- (c) *more detailed and up to date statistical information on the position of men and women in the labour market, as well as indications as to the labour market participation of the different ethnic minorities.*

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

Cyprus

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1968)

Article 1 of the Convention. Discrimination on the basis of race, colour and national extraction. The Committee notes with interest the adoption of the Equal Treatment in Employment and Occupation Law (No. 58(I)/2004) which

transposes Directive 2000/78/EC and Directive 2000/43/EC by prohibiting discrimination in employment and occupation on the grounds of race, ethnic origin, religion or belief, age and sexual orientation. The Law defines and prohibits direct and indirect discrimination and harassment (article 2) of all persons in the public and private sectors with regard to access to employment, vocational training, terms and conditions of employment and membership in workers' or employers' organizations (article 4) and allows for affirmative action measures (article 9). Moreover, it sets out protection against victimization (article 10) and gives any person who considers himself or herself affected by a violation of the Law the right to institute civil proceedings, including before the Commissioner for Administration (article 11). The Committee also notes with interest that pursuant to article 16(5) of the Law any collective agreement or employment contract or business regulation which is contrary to the Law, will be cancelled to the extent that it is directly or indirectly discriminatory. ***The Committee asks the Government to provide information on the practical application of the Equal Treatment in Employment and Occupation Law, including through the competent judicial and administrative bodies, and the Commissioner for Administration.***

The Committee is raising other and related points in a request addressed directly to the Government.

Czech Republic

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

1. *Articles 2 and 3 of the Convention. Promoting and ensuring the application of the Convention in practice.* In its previous observation, the Committee noted with interest the issuing of administrative instructions for labour inspectors concerning the monitoring of legal provisions on gender equality, including the principle of equal remuneration for men and women for work of equal value. The Committee notes with interest that the Government continued to strengthen its legal and institutional framework to apply the Convention by including in the Labour Inspection Act of 3 May 2005 provisions defining violation of the equal pay principle by natural and legal persons as an administrative offence subject to fines (sections 13 and 26). The Committee notes from the Government's report that labour inspections tended to focus on areas other than gender-based discrimination, but nevertheless in the second half of 2004 and first half of 2005, a total of 757 cases of breaches of the provisions on equal remuneration for work of equal value were identified. ***The Committee asks the Government to continue to provide information on the work of the labour inspection services in monitoring the application of equal pay provisions, including information on the extent, nature and outcome of the cases dealt with. The Committee would also appreciate receiving information on any court decisions concerning the principle of equal remuneration for men and women for work of equal value.***

2. Furthermore, the Committee notes that the Czech–Moravian Confederation of Trade Unions, in their comments attached to the Government's report, express the view that a greater role should be played by the individual employer in promoting equal remuneration for men and women for work of equal value. In this regard, the union suggests that gender equality plans should be adopted at the enterprise level. ***The Committee asks the Government to provide information on any measures taken to facilitate and encourage enterprise-level measures to promote the application of the principle of the Convention, in cooperation with workers' and employers' organizations.***

The Committee is raising other points in a request addressed directly to the Government.

Dominican Republic

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1953)

1. *Articles 1 and 2 of the Convention.* With regard to the efforts to amend section 194 of the Labour Code in order to modify the narrow concept of "equal pay for equal work and the same ability, efficiency or seniority, whosoever performs it", in order to align it with the principle of the Convention, the Committee notes the Government's statement that the Advisory Council on Wages has not yet met and so has had no opportunity to consider the matter. ***The Committee trusts that the Government will be in a position to provide information in its next report on progress made in bringing the legislation into line with the Convention.***

2. The Committee notes that, according to the Government, there is no sex-based discrimination in wages and statistics show that more women are employed in management jobs in public and private sector enterprises, the ratio being 3 to 1 in top management positions. The Committee notes that the statistics sent by the Government give figures for men and women employed in the hotel sector and in export processing zones but give no data disaggregated by sex on the distribution of posts or the amounts received as remuneration. ***The Committee would be grateful if in its next report the Government would provide this information, including all emoluments paid by the employer, with reference to all branches of economic activity, focusing in particular on data for the export processing zones and the hotel industry.***

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1964)

1. The Committee takes note of the information supplied by the Government at the Conference Committee on the Application of Standards in June 2004 in response to matters raised by the Committee in earlier comments. It also notes the discussion that ensued. The Conference Committee concluded by asking the Government for detailed information on

the practical effect given to the Convention, including statistics and information on the machinery for the prevention of sexual harassment and pregnancy testing in the *maquila* sector (export processing zones), the outcome of inquiries into complaints and all measures taken to deal with discrimination at work. The Committee also notes the observations of 31 August 2005 of the International Confederation of Free Trade Unions (ICFTU) and the Government's reply of 17 March 2006.

2. *Discrimination on grounds of colour and race.* In its previous observation the Committee noted that according to the ICFTU, although discrimination on the ground of race is prohibited by law, it exists in practice. The Committee noted in earlier comments that the Committee on the Elimination of All Forms of Racial Discrimination (CERD) had expressed concern about reports of racial prejudice not only against Haitians but also against darker-skinned Dominicans (CERD/C/304/Add.74 of 12 April 2001, paragraph 7). The Committee also took note of the Declaration by the Dominican Republic and the Republic of Haiti for the prevention of discrimination in the hiring of migrant workers, both Dominican and Haitian. In its communication of 2005, the ICFTU stated that between the end of July and mid-August, 2,000 persons detained by the police, the Dominican army or migration officials were deported to Haiti because of their colour or their inability to speak Spanish and that they had no opportunity to demonstrate that they were legal immigrants, recover their documents or contact the diplomatic authorities of their country. Nor were they allowed to claim payment of wages due. Even some Dominican nationals were deported, having been taken for Haitians. The Committee notes that the Government once again states that there is no discrimination based on colour, since 80 per cent of Dominicans are dark-skinned, and that the policy to repatriate Haitians who are not lawfully in the country is applied in accordance with the agreement on repatriation mechanisms concluded by Haiti and the Dominican Republic in 1999 and the Memorandum of Understanding on Migration Matters. The Government states further that it gives preferential treatment to Haitian nationals allowing them to demonstrate that they are legal immigrants and, where applicable, to retrieve their families and recover their belongings and any work-related entitlements before being repatriated. It also indicates that the Haitian authorities have filed no complaints with the foreign service authorities for these human rights violations.

3. The Committee notes that the Government refers to the legislation but supplies no information on its application in practice or on any inquiries into the matters raised by the ICFTU. The Committee recalls that as early as 2004, the Conference Committee indicated that according to the information available, the problems were not with the legislation but with the way it was applied in practice and that having noted the Government's determination to investigate the allegations made in the complaints and improve supervision of its laws against discrimination, it requested the Government to send to the Committee of Experts detailed information in writing, including statistics, on the practical effect given to the Convention, on the outcome of the investigations and on all measures taken to deal with discrimination at work.

4. The Committee notes with regret that the Government's report does not contain the practical information requested by the Conference Committee or any information on the case referred to by the ICFTU. ***It therefore reiterates the request for information made by the Conference Committee in 2004 and asks the Government to provide information on the case referred to by the ICFTU and on any inquiries carried out in this connection.***

5. *Discrimination on ground of sex.* In its previous observation, the Committee took note of a communication from the ICFTU reporting that although the law bans discrimination on the ground of sex, including pregnancy testing and sexual harassment, both exist and are allowed in practice. The Committee notes that according to the Government, the Labour Inspection Department has a policy on pregnancy testing, which it applies actively and consistently in all enterprises, particularly in the export processing zones and that it coordinates its work with the Labour and Gender Departments. The Committee also notes that the Government again states that there have been no complaints concerning pregnancy testing. ***The Committee again asks the Government to send information in its next report on the machinery for prevention and investigation in place to deal with practices that discriminate against women, particularly those alleged by the ICFTU, and on the application of the legislation in practice and, with regard to the cases cited, information on any investigations conducted and on their outcome.***

6. *HIV testing.* The Committee notes the information supplied by the ICFTU to the effect that men and women workers are required as a matter of course to undergo HIV testing in order to be hired or to keep their jobs, often against their will and in breach of the principle of confidentiality, and that the problem mainly affects women workers in the export processing zones and the tourist industry; furthermore, the machinery set up by the Government to prevent HIV testing has produced no results, labour inspectors do not enforce the ban on such testing, safety and health committees lack the necessary training and the workers file no complaints because they are unaware of the complaints procedures set up by the Government or because they are afraid that their HIV-positive status will be disclosed. The Committee takes note of the Government's statement that the legislation in force bans HIV testing as a condition for being hired or keeping one's job and that there have been no complaints by either men or women workers of any breach of this provision in any of the 37 local offices of the Ministry of Labour (SET) located throughout the country, nor have there been any reports or complaints from inspectors in the course of their regular visits or from the SET's AIDS Unit. The Committee also notes that the Health and Safety Department ran training and awareness-raising workshops on AIDS and labour rights, some of which were aimed at workers of both sexes and others for SET officials. The Committee takes note of Act No. 55-93 on AIDS which provides that the SET, in coordination with the trade union federations, are to promote information, education and communication campaigns intended for employees and employers in all public and private enterprises, on

how sexually transmitted diseases and AIDS are transmitted, and on prevention. *The Committee requests the Government to provide information on the manner in which it ensures the confidentiality of complaints of breaches of the ban on HIV testing and on the adoption of other measures to protect workers filing complaints or reporting violations and on measures to ensure enforcement of the ban by labour inspectors. Please also continue to provide information on campaigns for information and awareness-raising, on training in subjects related to this problem, particularly for labour inspectorate officials and employees, and on the impact of such activities in practice. The Committee would also appreciate being kept informed of any reports or complaints of breaches of the ban and any action taken on them, including any administrative or judicial decisions.*

The Committee is raising other matters in a request addressed directly to the Government.

Ecuador

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1962)***

1. *Article 2 of the Convention.* The Committee notes with interest the reactivation of the “Employment and Gender Policies” round table under the management of the National Council for Women (CONAMU), its strategic objectives and its courses of action. It also notes the annual plan of the Gender Equity Unit, the purpose of which is to contribute to the development, implementation and dissemination of employment generation and improvement strategies and programmes launched by the abovementioned round table that help to secure equal opportunities for men and women in Ecuador; and the Gender Equity and Youth Unit created in 2005 under the Directorate of Employment in order to carry out the plan. *The Committee requests the Government to report on the progress and results of the activities of the Employment and Gender Policies round table and on the implementation of the annual plan, particularly the activities carried out by the Gender Equity Unit.*

2. *Article 3(c). Legislation.* With reference to its previous comments on the amendment of some provisions of the Commercial Code and the legislation on cooperatives, the Committee notes that the Government has asked the National Cooperatives Directorate to take the necessary steps to repeal section 17(b) of the Regulations to the Cooperatives Act, by virtue of which married women need the authorization of their husbands to be members of housing, agricultural and family vegetable garden cooperatives. *The Committee urges the Government to take measures to have the provisions repealed, as the Committee has been requesting for several years. The Committee hopes that the Government will be in a position to inform it about progress on this matter in its next report.*

3. *Penal and labour reform.* The Committee notes that the Standing Committee for Women, Youth, Children and the Family has been working on the formulation of a number of amendments to penal provisions concerning sexual harassment and to labour law, in the course of harmonizing the Labour Code with the Code on Childhood and Youth. *The Committee requests the Government to report on the progress of these reforms.*

4. *Afro-Ecuadorian peoples.* The Committee notes with interest the work done by the Afro-Ecuadorian Peoples’ Council (CODAE) and the national policies to enforce the rights of Afro-Ecuadorian peoples laid down in Ecuador’s National Human Rights Plan. *The Committee requests the Government to inform it in its next report of the measures taken or envisaged to eliminate discrimination and promote equality in employment and occupation for Afro-Ecuadorian peoples.*

The Committee is addressing a request concerning other matters directly to the Government.

El Salvador

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1995)***

1. The Committee notes the information supplied by the Government to the Conference Committee on the Application of Standards in June 2004 in answer to issues raised in its previous comments, and the discussion which ensued. The Committee also notes the conclusions of the Conference Committee asking the Government to provide detailed information on the practical application of the Convention, particularly on the situation of women in the *maquila* sector and the working conditions of indigenous workers.

2. *Article 1 of the Convention. Maquila sector (export processing zones).* The Committee notes that section 627 of the Labour Code, which applies to women working in this sector, provides for specific penalties for employers who dismiss pregnant women or women with disabilities, and that monitoring of the prohibition on pregnancy testing as a condition for being hired or maintained in a job has been stepped up. *The Committee requests the Government to provide detailed information on cases detected by the labour inspectorate, the action taken and the results obtained.*

3. *Article 2. Public sector.* The Committee notes the Government’s indication that there are no instructions in the government sector that favour men in terms of access to jobs in the public administration, and that hiring depends on requirements pertaining to skills and abilities which apply to everyone, without distinction as to sex. The Committee notes that the absence of discriminatory instructions or rules is not sufficient to meet the requirements of the Convention, which

requires declaring and pursuing a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation. ***The Committee requests the Government to provide detailed information on the national policy for equality of opportunity and treatment in the public sector, and particularly on measures to promote the access of women and indigenous people to the public sector, including to management posts, and the outcome of these measures.***

4. *Indigenous workers.* The Committee notes that indigenous workers are covered by the constitutional guarantee of equality before the law. In its General Survey of 1988, the Committee concluded that in some cases, when past policies have done little to protect indigenous land and cultures, the indigenous populations may have migrated to urban areas where they are severely disadvantaged in terms of competing in the labour market. The Committee is of the view that the general principle of equality before the law cannot on its own ensure equality of opportunity in employment and occupation for men and women indigenous workers. It hopes that the Government will take steps to address discriminatory treatment that arises in practice, and promote equal opportunities for indigenous peoples, paying particular attention to equal access to vocational training, which is key to gaining access to the labour market on the same terms as other groups of the population. The Committee reminds the Government that in the case of self-employed workers, equality of opportunity and treatment in employment and occupation includes equal access to the material resources that enable such workers to carry on the activities from which they earn their living. As the Committee pointed out in its General Survey of 1988, in rural areas, if indigenous peoples have become agricultural labourers, their main problem may be de facto discrimination in terms of conditions of employment. If they earn their livelihood as subsistence farmers, their main problems frequently arise from unequal access to land, credit, marketing facilities, etc. In all such cases, official policies need to make provision for measures that allow indigenous peoples access to resources, including the means to carry out the activities from which they earn their living. ***The Committee requests the Government to provide information on the measures taken or envisaged to remedy these inequalities.***

The Committee is raising other points in a request addressed directly to the Government.

Eritrea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)

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 at its 282nd Session (November 2001) the Governing Body of the ILO approved the report of the tripartite committee set up to examine the representation alleging non-observance of Ethiopia of Conventions Nos. 111 and 158, made under article 24 of the ILO Constitution by the National Confederation of Eritrean Workers (GB.282/14/5). The Governing Body concluded that large-scale deportations of persons, including workers from Ethiopia to Eritrea and vice versa, occurred following the outbreak of the border conflict in May 1998. Recalling its previous comments following up on the Governing Body's conclusions, the Committee notes from the Government's report that Eritrea filed its statement of claims with the Eritrea–Ethiopia Claims Commission on 12 December 2001 in accordance with the Commission's instructions. The statement included claims relating to Ethiopia's treatment of workers of Eritrean nationality or origin (Eritrea claim 15 – persons expelled from Ethiopia; and Eritrea claim 23 – Eritrean nationals and persons of Eritrean origin remaining in Ethiopia). The Government indicates that it is currently preparing its counter-memorial with regard to the claims relating to expelled persons, while the memorial regarding persons that are still within Ethiopia will be due at a later stage. The Committee notes the Government's assurances that it would take all the necessary measures to implement fully any awards rendered. It also confirmed that Ethiopians residing in Eritrea were entitled to their employment rights and in case of abuse, victims were able to assert their rights. ***The Committee thanks the Government for this update and requests the Government to continue to provide information on its cooperation with the Government of Ethiopia and the Eritrea Ethiopia Claims Commission with regard to employment-related claims, any awards issued in regard to such claims, as well as the measures taken to implement them.***

The Committee is raising other points in a request addressed directly to the Government.

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

Finland

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1963)

1. In its previous observation, the Committee noted that the gender pay gap in Finland had remained unchanged in recent years and asked the Government to provide information on the measures taken to identify and correct pay differentials due to the undervaluation of work predominantly performed by women. In this regard, the Committee notes from the Government's report that the Government's Action Plan for Gender Equality 2004–07 sets out a number of objectives and measures aimed at reducing gender-based pay differentials, in cooperation with workers' and employers' organizations. It notes with interest that, as provided for in the Action Plan, the previous equality provisions have been strengthened by the Act amending the Act on Equality between Men and Women (Act No. 232/2005). The Committee notes in particular that under the amended Act on Equality between Men and Women, equality plans, which are obligatory for private and public undertakings with more than 30 employees, must include information that enables workers and

employers to monitor the equality situation in the enterprise concerned, i.e. details concerning the employment of men and women in different jobs and a survey of the grade of jobs performed by men and women, the remuneration for those jobs and differences in pay (section 6a(2)). Further, equality plans must set out measures to achieve pay equality and a review of the impact of measures previously taken to this end. Under the Act, employers must also promote equitable recruitment of women and men in the various jobs and create equal opportunities for career advancement (section 6(2)). *The Committee asks the Government to provide information regarding the following:*

- (a) *implementation and enforcement of the equal pay provisions of the amended Act on Equality between Men and Women, including information as to the activities of the Ombudsperson for Equality and the Equality Board to supervise compliance with the Act, as well as relevant court decisions;*
- (b) *progress made in the preparation and implementation of equality plans that address equal pay issues in accordance with the Act, indicating examples of plans that have resulted in the reduction of gender-based pay differentials in the enterprises concerned; and*
- (c) *the manner in which compliance with the Act's equal pay provisions is ensured through the promotion and use of objective job evaluation methods.*

2. The Committee further notes that a tripartite equal pay working group was established with the task of preparing an equal pay programme to be implemented through tripartite cooperation. The working group completed its work in May 2005, proposing a comprehensive programme that provides for measures to be taken in a number of targeted areas, including measures to address horizontal and vertical occupational segregation by gender, women's career development, equality planning, reconciliation of family and work responsibilities, pay systems, employment contract policies and statistics. The programme aims at closing the current gender pay gap of approximately 20 per cent, calculated on the basis of regular monthly working hours, by at least 5 per cent by 2015. *The Committee asks the Government to provide detailed information on the measures taken under the equal pay programme in respect of each of the areas mentioned above and the progress made in achieving the target set for 2015. Noting that the Government's report does not contain updated statistical information concerning men's and women's earnings, the Committee asks the Government to provide such information in its next report, as well as any further studies or analyses undertaken concerning the evaluation and elimination of the gender pay gap.*

The Committee is raising other matters in a request addressed directly to the Government.

France

Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 1989)

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 comments made by the French Democratic Confederation of Labour (CFDT) and the French Confederation of Christian Workers (CFTC).

1. Further to its previous observation expressing concern over the lack of protection against discrimination based on family responsibilities, the Committee notes with satisfaction the adoption on 16 November 2001 of Act No. 2001-1066 to combat discrimination, and in particular its section 1, which amends section L.122-45 of the Labour Code, prohibiting both direct and indirect discrimination in respect of remuneration, training, reclassification, assignment, qualification, classification, promotion, transfer or contract renewal against workers due to their family situation. It further notes that the Act also amends section L.122-45 of the Labour Code respecting the burden of proof, so that when a worker with family responsibilities presents facts from which it may be presumed that direct or indirect discrimination has occurred, it is for the defendant to prove that there has been no breach of the principle of non-discrimination. The Committee also notes that Act No. 2001 1066 inserts new sections L.122-45-1 and L.122-45-2 into the Labour Code, introducing the possibility for trade unions to submit discrimination complaints on behalf of alleged victims. *The Committee requests the Government to provide information with its next report on complaints that have been lodged with respect to workers with family responsibilities and on the action taken by employers' and workers' organizations to facilitate the reconciliation of work and family life.*

2. The Committee notes that section 55 of Act No. 2001 1246 of 21 December 2001 on the financing of social security amends sections L.122-25-4 and L.122-26 of the Labour Code, introducing more flexible provisions on family leave to encourage fathers to make greater use of their entitlement to parental leave. *The Committee requests the Government to indicate with its next report the use made by fathers of parental leave.*

...

4. The Committee notes the comments made by the CFDT under Convention No. 111 that, as part of the process to combat discrimination, it is necessary to ensure that adequate childcare facilities are made available so that both parents are able to fully exercise an occupational activity. *The Committee requests the Government to provide information with its next report on any measures taken to provide adequate childcare facilities to facilitate workers' reconciliation of work and family duties.*

5. The Committee notes that the Government's report once again does not contain a reply to its earlier comments on the matters raised by the CFTC concerning allowances in terms of career development and continuity of social protection. *The Committee therefore reiterates its earlier request and hopes that the Government will provide an answer to this comment with its next report.*

The Committee is raising other points in a request addressed directly to the Government.

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

Germany

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

Articles 1 and 2 of the Convention. Legislative developments. The Committee notes with interest the entry into force, on 18 August 2006, of the General Equal Treatment Act and the Soldiers Equal Treatment Act, which have been adopted with a view to implementing recent European directives concerning the principle of equal treatment. The Committee notes that the General Equal Treatment Act prohibits direct and indirect discrimination against employees based on race or ethnic origin, sex, religion or world view (*Weltanschauung*), disability, age or sexual orientation. The Act also prohibits harassment on any of these grounds and sexual harassment. The Committee notes with interest that the new legislation not only prohibits discrimination in employment and occupation but also establishes an obligation for the employer to take the measures necessary to protect employees from discrimination, including through preventative measures (section 12) such as information and training for staff concerning equal treatment, and to provide appropriate procedures to address cases of discrimination. The Committee also notes the establishment of the Federal Non-Discrimination Office within the Federal Ministry for Families, Older Persons, Women and Youth. The Non-Discrimination Office has a broad mandate that includes awareness raising, research, legal advice, mediation and reporting to Parliament. *The Committee requests the Government to provide in its future reports information on the practical application of the new legislation, including relevant administrative or judicial decisions and regarding the activities of the Non-Discrimination Office.*

The Committee is addressing a request directly to the Government.

Greece

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)

In its previous observation, the Committee noted that the General Secretariat on Equality had been participating in a number of activities and studies within the context of the European Union's efforts to promote equal remuneration and that, together with the Centre for Equality Issues (KEOI), it had elaborated the programmes entitled "Equal Remuneration and the Role of the Social Partners in Collective Bargaining", "Mind the Equal Pay Gap" and "Towards Closing the Equal Pay Gap", which were carried out between 2001 and 2003. *The Committee reiterates its request to the Government to provide more detailed information in its next report on the specific activities carried out under these programmes, including copies of the studies referred to, as well as an indication of the manner in which these programmes have contributed to a reduction in the pay gap between men and women and to the promotion of equal remuneration for men and women for work of equal value in both the public and private sectors. Noting further that the Government has not yet replied to the Committee's repeated requests for statistical information on the earnings of men and women in the public and private sectors, in accordance with its 1998 general observation on the Convention, the Committee urges the Government to supply such information in its next report.*

The Committee is raising other points in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1984)

1. *Discrimination on the ground of sex.* Recalling its previous observation concerning the access of women to the police academies and to employment in the police force, the Committee thanks the Government for providing the text of Presidential Decree No. 90 of 2003. It notes that the Decree amends the requirements for admission to the police academies contained in Presidential Decree No. 4 of 1995. Section 2(1)(f) of Decree No. 4, as amended by Decree No. 90, reads as follows: "They (men and women) shall be at least 170 cm tall without shoes." Further, Decree No. 90 introduces new athletic performance requirements that apply equally to men and women candidates. The Committee notes that the new admission requirements, particularly the height requirement, are likely to be more difficult for women to comply with than men, and thus may amount to indirect discrimination on the ground of sex, except if they could be justified under Article 1, paragraph 2, of the Convention which allows for certain distinctions, exclusions or preferences in respect of a particular job within the police force based on the inherent requirements thereof. *The Committee, therefore, reiterates its previous request to the Government to provide information on the practical impact of the admission requirements established in Decree No. 90 of 2003 on the admission of women to the police academies and their employment in various jobs in the police force, including information on the number of women and men admitted to the police academies since the entry into force of Decree No. 90, as compared to the previous situation, when a specific limiting quota for women had been applied. The Committee further requests the Government to indicate whether the new admission requirements have been challenged in court and, if so, to indicate the results of such proceedings. With reference to its previous comments, the Committee also requests the Government to clarify whether the quota system*

concerning women's admission to the fire brigade has been abolished and whether similar restrictions of women's employment continue to exist in any other area of public employment.

2. *Articles 2 and 3. Measures to promote and ensure gender equality in employment and occupation.* In its previous comments the Committee was able to note a number of initiatives and programmes to promote women's equal access to vocational training and employment and requested the Government to supply information on the effectiveness of these activities in addressing occupational segregation by gender. With respect to the application of the Convention in the public service, the Committee requested the Government to indicate the measures taken or envisaged to promote the access of women to higher graded jobs and to assist them in reconciling their work and family responsibilities, and to provide up to date statistical information on the participation of men and women in public service employment that would enable the Committee to assess the progress made in promoting women's equal access to civil service employment at all grades. ***Noting that the Government's report contains no reply to these comments, the Committee reiterates its request to the Government to provide the information requested. Recalling the obligation to report on the action taken in pursuance of the national policy to promote equality of opportunity and treatment and the results secured by such action (Article 3(f)), the Committee also hopes that the Government's future report will contain full information on the measures taken to promote and ensure gender equality in employment and occupation, and the impact of such measures.***

3. *Discrimination based on other grounds. Legislative developments.* The Committee notes with interest the adoption of Law No. 3304/2005 on the application of the principle of equal treatment regardless of racial or ethnic origin, religious or other beliefs, disability, age, or sexual orientation, which is intended to implement European Union Directives 2000/43/EC and 2000/78/EC. The new legislation, inter alia, requires private and public employers to respect the principle of equal treatment in employment and occupation. Under the legislation, the Ombudsperson is responsible for promoting the principle of equal treatment in public employment, including through the examination of complaints, while the Labour Inspectorate is responsible for dealing with violations in private sector employment. The Government's report states that the Labour Inspectorate is mandated to inform workers of their rights, to undertake investigations on its own motion, and to examine complaints. Violations of the principles of equal treatment are an administrative offence (section 17 of Law No. 3304/2005) and subject to fines. Finally, the Committee notes the Government's indication that the Labour Inspectorate must include a special chapter on equal treatment in its annual activity report. ***The Committee requests the Government to provide detailed information on the implementation and enforcement of Law No. 3304/2005. It particularly wishes to receive information on the activities carried out by the Ombudsperson and the Labour Inspectorate, including a copy of the equality sections of future annual labour inspection reports, as well as indications as to the number, nature and outcome of any complaints processed or investigations undertaken. The Committee also asks the Government to provide information on any cases regarding equality of opportunity and treatment in employment and occupation dealt with by the courts under the new legislation.***

The Committee is raising other points in a request addressed directly to the Government.

Grenada

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1994)

Articles 1 and 2 of the Convention. Differential minimum wage for male and female agricultural workers. In its previous comments, the Committee noted that Minimum Wage Order S.R.O. 11 (2002), setting the minimum wage for male agricultural workers at \$5 per hour and for female agricultural workers at \$4.75, is in direct contravention of the Convention as the rates are based on the sex of the worker. In its report, the Government states that the Order also provides that, where female workers perform the same tasks as men, they shall receive the same rate as men. While the Committee notes that wage differentials established on the basis of job-related, objective and non-discriminatory criteria are permitted, it emphasizes that the Order in question establishes different rates for men and women based expressly on sex, which is contrary to the Convention. ***It asks the Government to take the necessary steps to amend the Order accordingly and to provide information on the progress made concerning this matter in its next report.***

The Committee is raising other points in a request addressed directly to the Government.

Guatemala

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1961)

1. In previous comments, the Committee referred to information supplied by the International Confederation of Free Trade Unions (ICFTU) to the effect that there is a large wage differential between men and women and that women have a low participation rate in the better-paid jobs. With regard to this issue, the Committee noted that women tend to be employed in less-skilled jobs with less stability and lower pay, leading to the "feminization of employment" in lower ranking jobs and to an economic and social undervaluation of the jobs performed by women. It asked the Government to provide information on the measures adopted or envisaged to promote the objective evaluation of jobs. It also emphasized the importance of this methodology in allowing an objective and analytical measurement and comparison of the relative value of the work performed so that effect can be given to the Convention, particularly in the case of work that is different

but which, for the purposes of applying the principle laid down in the Convention, may nevertheless be of equal value. The Committee notes the Government's indication on these matters that the National Wage Commission, in relation to the activities entrusted to it for fixing the minimum wage, applies the principle set out in the Convention. ***Recalling that the principle laid down in the Convention is not confined to the minimum wage, but applies to all emoluments paid directly or indirectly by the employer, the Committee hopes that the Government, with a view to preventing and eliminating the horizontal segregation of women, will adopt measures to promote the establishment of methods allowing the objective evaluation of jobs in the private sector, and asks it to keep the Committee informed on progress and results in practice in the adoption of such measures. It also reiterates its request for information on the measures adopted to secure for women the same opportunities as men in terms of access to jobs which are better paid and more highly skilled.***

2. *Legislation.* With regard to the adoption of the necessary measures to give legislative expression to the principle of equal remuneration for men and women for work of equal value, the Committee notes the Government's indication that reforms to the Labour Code, including the incorporation of the principle set out in the Convention, are being discussed in the Tripartite Committee on International Labour Affairs. ***The Committee trusts that the Government will amend the Labour Code to bring it into conformity with the Convention, and asks the Government to keep it informed of progress in this regard.***

The Committee is raising other matters in a request directly addressed to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)

1. The Committee notes the information provided by the Government in its report and its comments concerning the observations sent by the Trade Union Confederation of Guatemala (UNSITRAGUA), dated 1 September 2003.

2. *Legislation.* The Committee notes that according to the report, the Tripartite Committee on International Labour Affairs has reached a consensus in relation to the legal reforms that are necessary to bring the Labour Code into conformity with international standards relating to the elimination of discrimination in employment and occupation and, on this basis, the Government has submitted the respective proposal to the Congress of the Republic for approval. The Committee trusts that the Government will amend section 14bis of the Labour Code to include the criteria set out in the Convention and that sexual harassment will be included as a form of sexual discrimination within the meaning outlined in the 2002 general observation. ***Please keep the Committee informed of progress made in the reform of the Labour Code and provide a copy of the relevant amendments and legislation once they are adopted.***

3. *Pregnancy tests.* The Committee notes the information provided by UNSITRAGUA concerning the existence of discriminatory practices towards women by certain enterprises which compel applicants to undergo pregnancy tests as a requirement for admission to employment. The Committee notes the Government's indication in reply to this communication that the situation of discrimination against women is included in the reforms to the Labour Code that are being examined by the legislative authorities. ***The Committee requests the Government to provide information on the measures adopted in practice to prohibit the requirement of pregnancy tests as a condition to obtain and retain employment, and it trusts that this prohibition will be explicitly laid out in the legislation in the context of the amendments to the Labour Code that are currently under discussion. The Committee requests the Government to keep it informed on this matter.***

4. *Export processing sector.* With reference to the comments made by the International Confederation of Free Trade Unions (ICFTU), which were noted by the Committee in 2002 and which relate to sexual harassment, physical abuse, intimidation, threats and reprisals against women workers, the Committee notes with interest the measures adopted by the Ministry of Labour and Social Insurance to prevent and combat discrimination against women in the labour market through the activities carried out by the Department for the Promotion of Women Workers, as well as the activities to raise awareness of women's labour rights and the efforts made by the dispute settlement body in the export processing sector. ***The Committee requests the Government to provide information in its next report on the impact of these activities, particularly in the export processing sector, in terms of the results achieved, with an indication of their impact on the situations referred to by the ICFTU.***

5. *Indigenous workers.* In its previous comments, the Committee noted the adoption of the Act for the promotion of education against discrimination (Decree No. 81-2002), which provides for the implementation of non-discrimination programmes in education and in the activities of the Ministry of Culture and Sport. In this context, the Committee notes the establishment of the Unit for the Promotion of Ethnic and Gender Equity in Cultural Diversity and the activities undertaken. ***The Committee hopes that the Government will develop a national policy guaranteeing equality of access to vocational training for indigenous people at all levels, as this is the principal element determining their opportunities in practice for integration into the labour market in conditions of equality of opportunity, and that it will keep the Committee informed in this respect.***

6. *Presidential Commission against Racism and Discrimination.* The Committee notes from the Government's reply to UNSITRAGUA's observations, that it acknowledges that the phenomenon of discrimination against indigenous persons occurs at all levels of national life, including in labour matters. The Committee notes the strategic objectives of the Presidential Commission against Racism and Discrimination, the activities carried out and the survey that is planned in each state institution on the number and category of positions occupied by indigenous persons. It also notes that 50 cases

of discrimination and racism in 16 departments of the country have been reported and were monitored during the period 2003, 2004 and the first half of 2005. *The Committee requests the Government to provide information in its next report on the measures adopted or envisaged to eliminate ethnic discrimination in employment and occupation, and particularly the activities carried out by the Presidential Commission and their impact in practice. It also requests the Government to provide the findings of the planned survey, where possible disaggregated by sex, and the action taken on the cases referred to with an indication, where appropriate, of the respective administrative and/or judicial decisions.*

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

Guyana

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)

1. *Legislation.* The Committee recalls that section 9 of the Prevention of Discrimination Act No. 26 of 1997 imposes the obligation on every employer to pay equal remuneration to men and women performing work of equal value, while section 2(3) of Equal Rights Act No. 19 of 1990 provides for “equal remuneration for the same work or work of the same nature”, which is a narrower concept than that required by the Convention. Further, the Committee recalls that section 28 of the 1997 Act stipulates that the Act shall not derogate from the provisions of the Equal Rights Act of 1990 but that the Government previously stated that the 1997 Act takes precedence over the 1990 Act. In light of the fact that section 2(3) of the 1990 Act falls short of the requirements of the Convention, the Committee remains concerned about the inconsistency between the above provisions concerning equal remuneration. *Noting that no progress has been made concerning this matter for a number of years, the Committee asks the Government once again to amend the legislation in question with a view to ensuring that it is in accordance with the Convention and to avoid any uncertainties as to the interpretation of the provisions concerned, for instance, through expressly providing that the 1997 Act, in case of conflict, takes precedence over the 1990 Act. The Committee asks the Government to indicate any measures taken or envisaged in this respect.*

2. *Application in practice.* The Committee recalls its previous comments asking the Government to provide information on the measures taken or envisaged to promote and supervise the application of the equal remuneration provisions of the Prevention of Discrimination Act. The Committee also recalls the communication received from the International Confederation of Free Trade Unions (ICFTU) of 30 October 2003 which was forwarded to the Government on 13 January 2004 and again on 1 June 2006, and to which the Government has not yet replied. The ICFTU raises concerns regarding the promotion and effective enforcement of equal pay legislation. In this context, the Committee notes the Government’s statement that there were no cases of male and female workers receiving different pay for the same work and that it was a long established fact that men and women received equal remuneration both in the public and private sectors. The Committee draws to the Government’s attention the fact that the principle of equal remuneration for men and women for work of equal value does not merely require equal pay for the same or equal work but also equal pay for different work that is nevertheless of equal value, as established on the basis of an objective evaluation of the content of the work performed. The absence of differential wage rates for men and women, while necessary in order to apply the Convention, is not sufficient to ensure its full application. *Concerned that the Government’s report indicates misunderstandings as to the scope and meaning of the Convention’s principle, the Committee considers that training concerning the principle of equal remuneration for labour inspectors and judges, as well as workers’ and employers’ representatives is essential to effectively ensure the application of the Convention. It asks the Government to indicate in its next report any measures envisaged or taken to ensure the application of the equal pay legislation and the Convention through training and awareness-raising and to indicate any steps taken to seek the cooperation of workers’ and employers’ organizations in this regard. Further, the Committee reiterates its request to the Government to provide information on any judicial or administrative decisions relating to the equal pay provisions of the Equal Rights Act No. 19 of 1990 and the Prevention of Discrimination Act of 1997.*

The Committee is raising other points in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1975)

1. The Committee notes with interest the Constitution (Amendment) (No. 3) Act, 2001, which provides for the establishment of several commissions for the promotion and enhancement of fundamental human rights and the rule of law, including the Human Rights Commission, the Women and Gender Equality Commission and the Indigenous Peoples’ Commission. The Committee notes that these Commissions have broad mandates to promote and protect fundamental human rights, through, inter alia, monitoring and reviewing existing and proposed legislation, educating the public, research, investigation of complaints, mediation and conciliation, and cooperation with governmental and non-governmental organizations. *The Committee requests the Government to provide in its next report information on the establishment and functioning in practice of these Commissions, including information on any activities carried out to promote equality of opportunity and treatment in employment and occupation.*

2. In addition, the Committee recalls that the International Confederation of Free Trade Unions' (ICFTU) communication of 30 October 2003, was forwarded to the Government on 13 January 2004 and again on 1 June 2006. The communication raises a number of issues relating to gender equality in employment, including the low representation of women in traditionally male-dominated areas of work, the weak labour force participation of Amerindian women, and the lack of effective procedures for dealing with complaints of discrimination. ***The Committee requests the Government to provide full information on the measures taken or envisaged to promote gender equality in employment and occupation, including any specific action taken to promote the access of Amerindian women to work and employment. It also requests the Government to indicate the number of complaints received by the Commissions mentioned above concerning discrimination based on sex and indigenous origin or identity.***

The Committee is raising related and other points in a request addressed directly to the Government.

Hungary

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1961)***

1. *Articles 1 and 2 of the Convention. Legislative developments. Equal opportunity plans.* Further to its previous comments concerning the adoption of Act CXXV of 2003 ("Equal Treatment Act"), the Committee notes that the Act provides for a new section 70A of the Labour Code which recognizes the important role played by employers in promoting equal opportunity by providing that the employer may adopt an equal opportunities plan in cooperation with the trade union or works council concerned. Equal opportunity plans shall contain an analysis of the employment situation of groups of employees in a disadvantaged position, in particular: (a) women; (b) employees over 40 years of age; (c) the Roma; (d) employees with disabilities; and (e) employees raising two or more children below the age of 10, or single employees raising a child below the age of 10. This analysis should cover wages, working conditions, advancement, training, and benefits related to child-raising and parenthood. The plans shall also state the employer's objectives in ensuring equal opportunities and the measures envisaged to achieve these objectives. Under section 36 of the Equal Treatment Act, public agencies employing more than 50 employees and legal persons with a majority state ownership must adopt an equal opportunities plan. ***The Committee requests the Government to provide information on the progress made in the adoption and implementation of equal opportunity plans by private and public sector employers and the results achieved through such action.***

2. *Follow-up to the representation made under article 24 of the ILO Constitution by the National Federation of Workers' Councils (NFWC) concerning the application of Conventions Nos. 111 and 122 (GB.275/7/3, June 1999).* The Committee recalls that this representation concerned allegations that legislation enacted by the Government reducing the personnel budget of institutes of higher education in 1995 had resulted in the dismissal of a disproportionate number of female lecturers and researchers. The Governing Body determined that there was insufficient information to permit it to reach any conclusion, but requested the Government to provide additional information to the Committee of Experts on the issues raised in the representation.

3. In its previous comments, the Committee requested the Government to provide information on the number of teaching and non-teaching staff, disaggregated by sex, which were dismissed due to the 1995 austerity measures. In reply, the Government refers to previously submitted information concerning the gender composition of the total workforce dismissed, but did not indicate the gender composition of the dismissed teaching and non-teaching staff respectively. As the Committee is not yet in a position to appreciate whether the 1995 austerity measures had a disproportionate impact on female teaching staff, it would like to clarify its request to the Government concerning the additional information requested. ***The Committee, therefore, asks the Government to indicate the number of female and male teaching staff respectively, at the time the measures in question were taken, as well as the number of the teaching staff dismissed, again disaggregated by sex. The Committee urges the Government to ensure that in any future situation where public employment must be reduced due to budgetary constraints, an assessment of the impact of measures taken on the men and women in the sectors affected is made in order to avoid dismissals contrary to the principle of equality of opportunity and treatment.***

The Committee is raising other points in a request addressed directly to the Government.

India

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1960)***

1. The Committee notes the communication dated 29 August 2006 received from Hind Mazdoor Sabha, a workers' organization, which was forwarded to the Government on 28 September 2006. The communication states that protection under article 14 (equality before the law) and article 15 (prohibition of discrimination on grounds of religion, race, caste, sex or place of birth) of the Constitution did not cover private sector employees. Widespread discrimination against *Dalits*, *adivasis* and women in the construction and fishing industries, as well as in agriculture, is alleged. ***The Committee***

requests the Government to provide information in reply to these matters raised by Hind Mazdoor Sabha in its next report.

Discrimination based on social origin

2. The Committee recalls that caste-related discrimination in employment and occupation is a form of discrimination based on social origin that is contrary to the Convention. In its previous observation, the Committee stressed that the practice of untouchability, which continues despite its prohibition under the Constitution, needs to be addressed effectively if discrimination in employment and occupation against *Dalits* based on their social origin is to be eliminated. In this context, the Committee noted recommendations made by the then National Commission for Scheduled Castes and Tribes, including concerning measures to strengthen the enforcement of the Protection of Civil Rights Act, increased cooperation of the responsible public authorities at the various levels and broad awareness-raising campaigns.

3. Given the seriousness and magnitude of the problem, the Committee regrets that the Government's report does not provide any information in reply to the Committee's specific requests. ***The Committee therefore urges the Government to take action with a view to eliminating discrimination in employment and occupation against members of the Dalit population and promoting equality of opportunity and treatment for them, including through strengthening legal protection and socio-economic empowerment, and to inform the Committee on the measures taken in this regard. The Committee also reiterates its request to the Government to provide information on the steps taken to raise awareness among workers and employers of the issues involved, particularly the need to reject and combat the practice of untouchability and caste-based discrimination at work. The Committee requests the Government once again to indicate the steps taken to seek the cooperation of workers' and employers' organizations in this regard. In addition, the Committee requests the Government to provide a copy of the most recent report of the National Commission for Scheduled Castes.***

4. ***Manual scavenging.*** With regard to the practice of manual scavenging and the fact that *Dalits* are usually engaged in this practice due to their social origin in contravention of the Convention, the Committee noted in its previous observation that the Tenth Five-Year Plan (2002–07) refers to a nationwide programme for the total eradication of manual scavenging by 2007, including state-specific plans of action concerning the construction of wet latrines and provision of alternative training and jobs to scavengers. In its report, the Government confirms that a National Action Plan for the Eradication of Manual Scavenging is being implemented and states that it is “trying its level best to advise and recommend steps which may lead to the total eradication of manual scavenging by 2007”. It is also “trying to ensure that State Government, railways and local authorities apply and enforce the prohibition of manual scavenging” as contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The Government also recommended the launching of a national awareness-raising campaign through the media. Statistical data on the prevalence of manual scavenging is under preparation.

5. While the Committee notes the Government's statement that it agreed with the Committee's recommendations regarding manual scavenging, it notes that the report falls short of satisfying the Committee's requests for information made in the previous observation. The Committee requested information on the specific measures taken concerning a number of issues. The Committee is thus not in a position to assess the progress made in ensuring that the practice of manual scavenging, which goes hand in hand with serious and systematic discrimination based on social origin contrary to the Convention, is being eradicated as soon as possible. ***The Committee, therefore, urges the Government to provide detailed information regarding the specific action taken by the central Government and at the level of states and union territories to put an end to the practice of manual scavenging and on the progress made in the identification, liberation and rehabilitation of scavengers, including statistical data. In this context, the Committee strongly urges the Government to take decisive action:***

- (a) to ensure that the state, local and railway authorities apply and enforce the prohibitions contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, and that the penalties provided for their violation are effectively imposed (please indicate the number of prosecutions initiated and the number and nature of penalties imposed);***
- (b) to evaluate the effectiveness of the existing schemes for the construction of flush latrines and the rehabilitation of manual scavengers;***
- (c) to launch or expand public-awareness programmes for the population and educational and training programmes for the authorities involved, in order to promote the changes in attitudes and social habits which are necessary to bring about the elimination of manual scavenging.***

The Committee hopes that the Government's next report will contain information on the specific action taken on these matters. In addition, the Committee requests the Government to provide a copy of the National Plan of Action on the Eradication of Manual Scavenging and information on its implementation and the results achieved thereby.

Equality of opportunity and treatment of men and women

6. ***Trade union comments.*** The Committee recalls the communication received from the Centre of Indian Trade Unions (CITU) dated 24 August 2005 alleging that a public sector undertaking was implementing a special voluntary

retirement scheme for women with a view to reducing the workforce. Further, CITU stated that the same undertaking gave jobs to male heirs of deceased employees, but refused to give jobs to female heirs.

7. The Government states that in the undertaking concerned, Coal India, a voluntary retirement scheme had been introduced in 2002 and was operative until 31 December 2003. The Government emphasizes the voluntary nature of the scheme and that it offered an opportunity to unskilled female workers to receive full termination benefits. The management had also offered employment to eligible sons of female retirees. With regard to the allegation that the undertaking refused to hire female heirs of deceased employees, the Government suggests that the fact that the company in question employed about 30,000 women did not support such a conclusion. However, the Government also states that women cannot be deployed in underground mines and that “therefore, in general, male dependants, if available, are preferred for employment”.

8. The Committee further notes the Government’s indication that most of the women employed by Coal India are appointed under the National Coal Wages Agreement (NCWA). The Committee notes that clauses 9.3.0 to 9.3.4 of the NCWA deal with providing employment to one dependant of a worker who died while in service. A dependant for this purpose is defined as “the wife/husband as the case may be, unmarried daughter, son and legally adopted son. If no direct dependent is available for employment, brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependent on the earnings of the deceased may be considered to be the dependant of the deceased” (clause 9.3.3). In order to be considered for employment, dependants “should be physically fit and suitable for employment and aged not more than 35 years” (clause 9.3.4). Special provisions exist for employment and monetary compensation for female dependants (clause 9.5.0), including provision for placing male dependants over 12 years of age on a roster for future employment in case employment is not offered to the female spouse of a deceased worker. The Committee understands that these clauses of the NCWA await revision in view of several decisions of the Supreme Court.

9. The Committee recalls that the Convention aims at the elimination of discrimination in respect of access to employment, terms and conditions of work, which includes welfare facilities and benefits provided in connection with employment, as well as with respect to security of tenure. Differential treatment based on sex is only permitted in respect of a particular job, based on the inherent requirements thereof. While noting that the scheme in question is no longer in effect, the Committee observes that voluntary occupational retirement schemes aiming at the retirement of women only would not be compatible with the principle of equality of opportunity and treatment of men and women, as provided in the Convention. The Committee also considers that giving preferential treatment to sons of early retirees, as well as to male dependants of workers who died while in service is discriminatory.

10. *The Committee requests the Government to take the steps necessary to ensure that voluntary occupational retirement schemes are designed and implemented without discrimination based on sex. With regard to the provision of employment to dependants, the Committee requests the Government to provide information on the steps taken to ensure that male and female dependants benefit from such a measure on an equal footing. It also requests the Government to provide information on the revision of the clauses of the NCWA pertaining to the provision of employment to dependants and the measures taken to ensure that these clauses are in accordance with the principle of equality of opportunity and treatment of men and women.*

11. *Measures to promote gender equality in employment and occupation.* In its previous comments, the Committee noted from the 2001 census data that women’s participation in the organized sector, the public sector and government employment still remained very low, as compared to men. In its report, the Government states that a plan of action to operationalize the 2001 National Policy for the Empowerment of Women has been finalized and submitted for Cabinet approval. ***The Committee requests the Government to continue to provide information on the progress made in implementing the National Policy on Women as it relates to the promotion of gender equality in employment and occupation, including information on the impact of any measures taken. It requests the Government once again to provide information on the specific action taken or envisaged to promote women’s equal access to employment in the organized and public sectors, as well as government service. Further, the Committee requests the Government to provide updated information on the measures taken or envisaged to promote women’s access to vocational training and income-generating activities, including measures and programmes targeting Dalit and tribal women. Finally, the Government is asked to keep the Committee informed of the progress made in adopting the legislation prohibiting sexual harassment.***

[The Government is asked to supply full particulars to the Conference at its 96th Session and to report in detail in 2007.]

Indonesia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1958)

1. ***Article 2 of the Convention. Implementing the principle of equal remuneration for men and women for work of equal value through national legislation.*** The Committee recalls its previous observation in which it had noted the concerns expressed by the International Confederation of Free Trade Unions (ICFTU) regarding the over-representation of women in low-pay, casual and low-responsibility jobs in the public and private sectors, and the absence of an explicit prohibition of discrimination based on sex in Manpower Act No. 13/2003. The Government, in its reply, indicated that

sections 5 and 6 (providing for equality of opportunity and treatment without discrimination) and section 92 (providing for objective criteria for determining wage scales and structures) of Manpower Act No. 13/2003 adequately protected women against discrimination, and that the prevention of wage discrimination was undertaken through the examination of company regulations and collective agreements. While noting the Government's explanation, the Committee had nevertheless regretted the omission of a specific provision guaranteeing men and women equal remuneration for work of equal value, and noted that the former Manpower Act of 1997 had provided that "in determining wages the employers shall be prohibited to practice discrimination on whatever basis with respect to jobs of the same value". It had requested the Government to consider amending Manpower Act No. 13/ 2003.

2. The Committee notes that the Government reiterates its previous explanations and states that, since Indonesia has ratified Convention No. 100, the provisions of the Convention are legally binding. The Committee recalls Paragraph 3(1), of Recommendation No. 90 which suggests that "where appropriate in the light of the methods used in operation for the determination of remuneration, provision should be made by legal enactment for the general application of the principle of equal remuneration for men and women workers for work of equal value". The Committee further notes the Government's confirmation that Government Regulation No. 8 of 1981 remains valid and that work agreements, company regulations or collective agreements should be established in accordance with section 3 of this Regulation which provides that, in determining wages, employers shall not discriminate between men and women for work of equal value. The Committee notes with interest the launching, in December 2005, of the Guidelines on Equal Employment Opportunities (EEO), which provide detailed guidelines on how to implement the principle of equal remuneration for men and women for "work of equal value" set out in the Convention. ***Based on the above, and as the Convention has now been ratified for almost 50 years, the Committee considers that it would improve significantly the protection provided under the Convention if Manpower Act No. 13/2003 were amended to give explicit legal expression to the principle of the Convention. It hopes that the Government will do so as soon as the occasion to undertake a revision of the Act arises. In the meantime, the Committee asks the Government to provide detailed information in its future reports on the practical application and enforcement of Government Regulation No. 8/198, and activities to promote and implement the EEO Guidelines, in cooperation with the workers' and employer's organizations.***

The Committee is raising other and related points in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

1. *Article 1 of the Convention. Definition and prohibition of direct and indirect discrimination in national legislation.* The Committee recalls its previous observation, in which it welcomed the provisions of the Manpower Act (No. 13 of 2003), in particular sections 5, 6 and 32, prohibiting discrimination. It also recalled that the Human Rights Act of 1999 provided for a general prohibition of direct and indirect discrimination on the basis of race, sex, religion, political opinion, national extraction and social origin. At the same time, the Committee expressed concern over the lack of specificity in the Manpower Act on the elaboration of specific grounds and the absence of a clear definition of discrimination in employment and occupation. ***While noting the Government's statement that the meaning of discrimination in the abovementioned sections has been derived from Act. No. 21/1999 concerning the ratification of Convention No. 111, the Committee requests the Government to take the necessary measures to amend Act No. 13/2003 or to issue regulations with a view to incorporating a clear and comprehensive definition of direct and indirect discrimination covering all the grounds and all aspects of employment and occupation in accordance with Article 1 of the Convention. It requests the Government to provide detailed information on the progress made in this regard in its next report.***

2. *Discrimination on grounds of race, colour and national extraction.* In its previous observation, the Committee expressed concern regarding the allegations made by the International Confederation of Free Trade Unions (ICFTU) in its communication of 25 June 2003 that transmigration of certain ethnic groups had resulted in discrimination of indigenous groups in public sector employment, especially in the Papua and Kalimantan regions. The Committee notes in this regard the Government's reply indicating that, to avoid discrimination between local and *transmigrants* regarding their opportunities to obtain a better life and income, the employment opportunities provided by the transmigration programme are intended to benefit both the *transmigrants* and the local population. The Government further states that it cannot comment on race discrimination in Papua and Kalimantan due to the limited information provided in this regard by the ICFTU. The Committee recalls the seriousness of the allegations made and regrets the lack of additional information in the Government's report regarding the specific measures undertaken to address and eliminate discrimination on grounds of race, national extraction and colour at the regional level in public and private employment and particularly in Papua and Kalimantan. ***It urges the Government: (a) to take steps to examine the situation of alleged race discrimination in Papua and Kalimantan and to indicate the results obtained in this regard; (b) to indicate in its next report the concrete measures taken at national and regional levels to ensure that there is no employment discrimination on the abovementioned grounds in the implementation of the transmigration programme; and (c) to provide detailed information on any other action taken to address and eliminate discrimination in public and private employment on the basis of race, national extraction, colour and religion in accordance with Articles 2 and 3 of the Convention.***

3. *Discrimination on the ground of sex.* Recalling the ICFTU's allegations concerning discrimination against women due to maternity, the Committee notes the information provided by the Government that the labour inspectorate ensures the enforcement of the maternity protection provisions of Act No. 13/2003 through preventive actions (education, awareness raising), non-judicial action (warnings) and judicial action (referral of a case to court). ***The Committee asks the Government to provide with its next report additional information on the action taken by the labour inspectorate, such as the number of inspections carried out in relation to discrimination in employment, particularly on the ground of maternity, and the results thereof, violations reported, penalties imposed and relevant cases brought before the courts. Please also provide information on any other measures taken or envisaged to address and eliminate discrimination on the ground of maternity.***

4. *Article 2. Promoting equality of opportunity between men and women.* The Committee notes with interest the launching of the Equal Employment Opportunity Guidelines on 8 December 2005, which were formulated with the assistance of the ILO and in consultation with the employers' and workers' organizations. The Guidelines provide direction and guidance to private sector enterprises regarding the implementation of the principle of equal opportunity and treatment between men and women in employment and occupation, and constitute an important step for the elimination of discrimination against women. The Committee further notes that the Tripartite Agreement on the Guidelines contains a commitment to continue to develop the Guidelines on other grounds of discrimination, pursuant to sections 5 and 6 of Manpower Act No. 13/2003. ***The Committee requests the Government to provide in its next report information on the following: (a) the steps undertaken to implement these Guidelines and to disseminate information about their content and objectives among employers and workers; and (b) the steps taken or envisaged to extend the application of the Guidelines to the other grounds referred to in the national legislation and Article 1(1)(a) of the Convention.***

The Committee is raising other points in a request addressed directly to the Government.

Japan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)

1. The Committee notes the Government's report and the attached observations of the Japanese Trade Union Confederation (JTUC-RENGO) dated 5 September 2005 as well as the Government's reply to these comments.

Assessment of the gender pay gap

2. The Committee notes that, according to the Basic Survey on Wage Structure, 2004, the overall gender pay gap (contractual cash earnings) for full-time workers was at 34.3 per cent in 2004, as compared to 35.1 per cent in 2002 and 34.5 per cent in 2000. According to the Government's report, the gender pay gap concerning scheduled cash earnings of full-time workers declined continuously from 40.3 per cent in 1986 to 32.4 per cent in 2004. The Committee also notes from the data provided by the Government that, on average, women working part-time in all industries have been in their jobs for a longer service period than their male counterparts but that, in 105 of 119 occupational categories considered in the statistics provided, the hourly scheduled cash earnings received by female part-time workers were lower than those received by male part-time workers. In its observations, JTUC-RENGO considers that the wage gap is still high and the Government states that it recognizes that the remaining disparity is still wide when compared internationally. The Committee expresses serious concern regarding the persistent and wide gender pay gap in Japan. ***The Committee asks the Government to continue to provide detailed statistical information on earnings of regular and non-regular workers, disaggregated by sex, according to industries and occupational categories, as far as possible as outlined in the Committee's 1998 general observation. It also asks the Government to supply information on any reports or studies undertaken to examine the evolution of the gender wage gap and the impact of the measures taken to address it.***

Legislation

3. The Committee recalls JTUC-RENGO's previous comments to the effect that enforceable legislative provisions are required to eliminate the factors underlying the gender wage disparities. The Committee notes from the Government's report that an advisory council comprised of experts, including workers' and employers' representatives, had been discussing measures to strengthen the promotion of equal opportunities for men and women since September 2005. It notes that Law No. 82 of 2006 has been adopted subsequently to revise the Equal Employment Opportunities Law (EEOL) and the Labour Standards Law which will become effective as from 1 April 2007. The Committee notes with interest that the revised EEOL explicitly prohibits discrimination based on sex in respect of assignment of tasks and responsibilities, as well as any changes concerning the worker's occupation or employment contract (article 6). ***The Committee asks the Government to provide in its future reports information on the implementation and enforcement of the revised EEOL, including examples of relevant administrative or judicial decisions relating to the application of the Convention.***

4. The Committee notes however that, while the EEOL prohibits discrimination with respect to matters that have an effect on remuneration levels, it does not cover pay discrimination itself, by prohibiting directly or indirectly discriminatory procedures or methods of determining remuneration, taking into account the principle of equal remuneration for work of equal value. As pointed out by the Committee previously, article 4 of the Labour Standards Law, which provides that in respect of wages an employer shall not engage in discriminatory treatment of a woman, as

compared with a man, by reason of the worker being a woman, does not fully reflect the principle of the Convention, as it does not refer to the element of equal remuneration for work of equal value. This element of the Convention's principle is crucial because it requires consideration of the remuneration received by men and women who are performing different jobs or work, on the basis of an evaluation of the content of the different jobs being performed using appropriate techniques of objective non-discrimination job evaluation. While the Government once again states that, in its view, article 4 of the Labour Standards Law satisfies the requirements of the Convention, the Committee emphasizes, in the light of the persisting and wide gender pay gap, that there is a need to address direct or indirect pay discrimination that results from the discriminatory undervaluing of work performed predominantly or exclusively by women. In this regard, the Committee notes the Government's indication that, in some cases, the courts have compared the jobs or work performed by men and women in order to determine violations of article 4 of the Labour Standards Law. However, most cases concern discriminatory practices in respect of promotion or advancement. ***The Committee asks the Government to continue to provide summaries of relevant court decisions, particularly final rulings, applying article 4 of the Labour Standards Law including in the context of equal remuneration for work of equal value. Given the persistent and wide gender pay gap, the Committee hopes that the Government will consider giving legislative expression to the principle of equal remuneration for men and women for work of equal value, with a view to ensuring the full application of the Convention, and to indicate any developments in this regard in its next report.***

Indirect discrimination

5. With respect to its previous comments concerning indirect discrimination, the Committee notes that the 2006 amendments to the EEOL introduced a new article 7 which is intended to address indirect discrimination. Article 7 authorizes the Ministry of Health, Labour and Welfare to identify, through an ordinance, measures which, taking into consideration the ratio of men to women and other elements, could potentially be considered discrimination essentially based on sex, which employers should not take, unless the measures are considered necessary for the job or for the management of employment in view of the situation of the whole operation, or unless there are other rational reasons. Recalling the guidance provided concerning the concept of indirect discrimination in paragraph 10 of its previous observation, the Committee notes that article 7 takes a restrictive approach by authorizing the authorities to identify a limited number of situations or practices which could amount to indirect discrimination, rather than by introducing a general definition of indirect discrimination that could be applied to a variety of situations. ***The Committee asks the Government to indicate the steps taken to ensure that the ordinance envisaged under article 7 of the EEOL will cover a wide range of measures that lead to situations where women disproportionately receive lower levels of remuneration than men without an objective job-related justification, and to provide the text of the ordinance as soon as it is adopted. It also asks the Government to indicate any steps taken to put in place measures to identify and remedy instances of indirect pay discrimination based on sex in the context of part-time, temporary and wage-based employment, as well as the use of career track management systems.***

Promotional measures

6. In its previous observation, the Committee noted that in 2003 the Government issued guidelines concerning measures for improving wage and employment management for eliminating wage disparity between men and women. These voluntary guidelines encourage employers to address certain issues, which are considered to be important causes of the gender wage gap in Japan, as reflected in the Committee's previous comments. The Committee notes the Government's indication that it is striving to ensure that the guidelines are widely used through the distribution of information and materials to employers' and workers' organizations. The Government also states that it facilitates efforts by employers and workers to reduce wage disparity by monitoring the situation through the preparation of wage disparity reports. The Committee further notes the examples mentioned in the Government's report of positive action taken by some enterprises, e.g. measures to increase the ratio of female managers. Recalling that one of the matters addressed by the guidelines is the need to improve employment and wage-management systems, inter alia, with a view to ensuring objectivity and transparency of wage decisions, the Committee notes JTUC-RENGO's position that, in order to implement the principle of equal remuneration for work of equal value, there is a need to study and develop measures of objective and non-discriminatory job evaluation. The Committee shares this assessment. ***The Committee asks the Government to provide detailed information on the promotion, application and effect on the gender wage gap of the abovementioned Guidelines, including information on the positive action taken and the reports on wage disparities. In particular, the Committee asks the Government to supply information indicating how enterprises are reforming their systems of employment and wage management with a view to ensuring transparent and non-discriminatory wage decisions, as well as job allocation and posting. Recalling that Article 3 of the Convention envisages objective job evaluation on the basis of the work performed as a means of giving effect to the Convention, the Committee asks the Government to indicate measures taken to promote the objective evaluation of jobs.***

Career tracking systems

7. The Committee notes the Government's indication that the report issued in 2002 by the study group on the issue of wage disparity between men and women pointed out that the use of career track systems was a cause of wage disparity because it leads to significantly lower levels of women in management positions. A 2003 survey showed that in 2000 the overall ratio of women on the main track was as low as 3.5 per cent and that 23 per cent of enterprises applying a career

track system had reviewed it in the last three years. *The Committee asks the Government to continue to provide information on the measures taken to decrease the use of such systems and to minimize their gender discriminatory effects, and on the extent to which such systems are being used, including updated statistical information on the distribution of men and women on the different tracks.*

Labour inspection

8. The Committee notes that, of the 122,793 inspections carried out during 2004, only eight found violations of article 4 of the Labour Standards Law. None of them was considered serious enough to be referred to the Prosecutor's Office. *The Committee asks the Government to continue to provide information on the measures taken by the labour inspectorate to address gender pay discrimination, including the number and nature of violations of section 4 found. It also asks the Government to indicate the methods used by labour inspectors to identify and detect violations of the principle of equal remuneration for men and women for work of equal value, and to indicate the nature and scope of training provided to labour inspectors on the principle of equal remuneration for men and women for work of equal value and on its implementation.*

[The Government is asked to supply full particulars to the Conference at its 96th Session and to report in detail in 2007.]

Workers with Family Responsibilities Convention, 1981 (No. 156) ***(ratification: 1995)***

1. The Committee notes the discussion in the Conference Committee on the Application of Standards in June 2004 and the Conference Committee's conclusions. It recalls the communications received from the Japan National Hospital Workers Union (JNHU/ZEN-IRO) dated 4 August 2004, and from the Japanese Trade Union Confederation (JTUC-RENGO) dated 31 August 2004, to which the Government replied in its report. The Government has also replied to the communication of the Telecommunications Workers' Union (TSUSHINROSO) received in May 2003. Finally, the Committee notes the further communication from JTUC-RENGO dated 20 September 2006, which was attached to the Government's report.

Article 2 of the Convention. Application to all branches of economic activity and all categories of workers

2. The Committee notes with interest that the Childcare and Family Care Leave Law was amended by Law No. 160 of 8 December 2004 to enable those employed by the employer on a fixed-term contract for a continuous period of one year and who are likely to continue to be employed after the date on which the child reaches one year of age, to apply for childcare leave (article 5). Fixed-term workers employed for a continuous period of at least one year can apply for family care leave if they are likely to continue to be employed following the 93rd day after the family care leave started (article 11). The Committee also notes the guidelines concerning measures to be taken by employers to facilitate the coexistence of work and family life of workers who care for children or other family members ("2004 Guidelines") issued by the Ministry of Health, Labour and Welfare on 28 December 2004 which, inter alia, provide guidance as to who qualifies as a fixed-term worker entitled to apply for childcare and family care leave under the Childcare and Family Care Leave Law (Part II, paragraph 1, of the Guidelines). *The Committee asks the Government to provide information on the operation of articles 5 and 11, and provide examples of the way in which an employee could show that he or she is likely to continue to be employed under those articles. Please also provide information on the practical application of these provisions and inform the Committee of any studies carried out on the operation of the Childcare and Family Care Leave Law with respect to fixed-term workers, as envisaged under article 2 of the Law's supplementary provisions.*

3. The Committee also notes the statement made by the Government during the Conference discussion emphasizing that measures supporting the harmonization of working and family responsibilities were clearly significant for workers in general, although not all workers would necessarily benefit from all measures. It also notes JTUC-RENGO's position that the requirements for coverage of fixed-term workers under the Childcare and Family Care Leave Law should be relaxed and that the childcare and family care leave system should also be extended to fixed-term workers in the public sector. *Recalling that the Convention applies to all branches of economic activity and all categories of workers, and that the Conference Committee called on the Government to endeavour to identify means of ensuring the application of the Convention to all categories of workers, including fixed-term, wage-based and part-time workers, the Committee requests the Government to indicate in its next report the measures taken in this regard and the progress made in putting in place appropriate measures to support the harmonization of work and family responsibilities for all workers.*

Article 3. National policy concerning workers with family responsibilities

4. The Committee notes the Government's indication that under the Law on Measures to Support the Development of the Next Generation (Law No. 120 of 2003), undertakings employing more than 300 employees are required to formulate an action plan to facilitate the harmonization of work duties with child rearing (article 12). Smaller enterprises should endeavour to formulate such action plans. Highlighting that only a very small portion of Japanese employers had more than 300 employees, JTUC-RENGO states that the Government should strongly urge all enterprises to adopt such

action plans. *The Committee asks the Government to provide information on the practical application of the Law on Measures to Support the Development of the Next Generation, including information indicating the extent to which enterprises are adopting such plans and indicating the kind of measures that are contained in these plans.*

Article 4. Right to free choice of employment.
Terms and conditions of employment

5. *New measures.* The Committee notes with interest that a number of new measures have been introduced benefiting workers with family responsibilities in the private and public sectors. The 2004 amendments to the Childcare and Family Care Leave Law introduced new articles 16-2 and 16-3 which require the employer to grant workers raising a child who has not yet entered elementary school, up to five days of leave per year to care for the child in case of injury or illness. With regard to the public sector, the Committee notes with interest that following a revision of rule 10-11 of the National Personnel Authority Rules, national public employees are able, as of 1 April 2005, to start and finish earlier or later in order to care for children who have not yet reached elementary school age, or for family members in need of nursing care and, as of 1 April 2006, to pick up children attending elementary school. As of 1 January 2005, male employees may request childcare participation leave under rule 15-14 to care for a newborn baby or older children below elementary school age during a period before and after childbirth. As of 1 April 2005, leave to care for a sick child was introduced for certain part-time workers under rule 15-15. ***The Committee requests the Government to provide information on the practical application of these measures, including indications concerning the number of men and women making use of them.***

6. *Transfer to remote workplaces.* The Conference Committee expressed concerns that despite the legislation and guidelines in force, personnel transfers appeared to continue to be imposed on workers without taking into consideration their family responsibilities, and requested the Government to take the necessary measures to review such practices in order to bring them into conformity with the Convention. In this regard, the Conference Committee emphasized that it was necessary to ensure that appropriate weight is given to the family responsibilities of workers affected by transfers.

7. In its report, the Government generally, and also in relation to the specific situation reported by TSUSHINROSO in 2003, states that employers and workers should engage in discussions and establish appropriate rules. It also acknowledges that when considering a transfer of a worker with family responsibilities, it was desirable to assess the impact of a transfer on the lives of the employee and his or her family, labour conditions, and other factors. The Government states further that measures should be taken to lessen the burden of the employees concerned, e.g. by announcing transfers well in advance. The Committee notes that the 2004 Guidelines provide that when considering changing the workplace of a worker with family responsibilities, the intentions of the workers concerned should be taken into account. It should also be confirmed that alternative means to care for a child or a family member are available in case the reassignment involves a change in his or her place of work (Part II, paragraph 12 of the Guidelines). Regarding employees of the National Hospital Organization, the Government repeats its previous statements to the effect that decisions concerning personnel transfers between hospitals are based on a careful examination of the employees' health and family situation and that no decisions ignoring the will of affected workers are being made.

8. JTUC-RENGO emphasizes in its latest comments that under article 26 of the Childcare and Family Care Leave Law, the employer must take family responsibilities into account when reassigning workers to such workplaces which would make it difficult for the worker to assume his or her family responsibilities. The union indicates that it called on its affiliates to work with employers to ensure family responsibilities are being given due consideration when employees are being transferred.

9. The Committee notes the information provided by the Government and welcomes the efforts made by JTUC-RENGO to engage in finding practical solutions to problems of workers with family responsibilities relating to transfers to other workplaces. However, the Committee also recalls that in accordance with *Article 4* of the Convention, the Government is to ensure that the needs of workers with family responsibilities are taken into consideration in their terms and conditions of employment, which includes transfers to remote workplaces, and that workers enjoy the right to free choice of employment. The Government, as stated in the Conference Committee's conclusions, should therefore review transfer practices affecting workers with family responsibilities to ensure that they are in conformity with the Convention. ***The Committee requests the Government to provide statistics on the impact of transfer practices, disaggregated by sex. Please also provide information on the measures taken to monitor and review transfer practices, including information on the measures taken to supervise the application of article 26 of the Childcare and Family Care Leave Law, and on any specific instances where guidance has been given by the competent authorities to resolve related difficulties.***

10. *Reduction of working hours.* The Committee notes JTUC-RENGO's position that in order to ensure a decent life for all workers, and particularly those with family responsibilities, it was critical to reduce overtime work, and that the actual hours worked should be reduced to 1,800 per year. JTUC-RENGO states that workers were increasingly requested to work long hours, and that workers unable to do so would face unstable forms of employment. Recalling its previous comments on the Government's efforts to promote the reduction of working time, the Committee notes from the Government's report that the Law on Special Measures for the Improvement of Working-Time Arrangements entered into force on 1 April 2006 which, inter alia, promotes flexible working-time arrangements. The Government states that it is making efforts to ensure the Law's application, including by facilitating shorter working hours.

11. The Committee considers that in order to enable men and women with family responsibilities to enter and remain in the labour market, as well as to advance in their professional development, it is important that further progress is made in the overall reduction of working hours. The Government's attention is drawn to paragraph 18 of the Workers with Family Responsibilities Recommendation, 1981 (No. 165) which states that particular attention should be given to general measures for improving working conditions and the quality of working life, including measures aimed at the progressive reduction of daily working hours and the reduction of overtime. The Committee also notes that special measures concerning working time currently available to workers with family responsibilities tend to be relied upon by women. It is concerned that this hinders progress towards achieving gender equality in employment and occupation, one of the Convention's objectives. ***The Committee requests the Government to provide further information on the specific measures taken to promote the reduction of working hours, including the results in achieving the target of 1800 total working hours per year. It also requests the Government to provide information on the implementation of the Law on Special Measures for the Improvement of Working-Time Arrangements.***

Article 5. Childcare service and facilities

12. The Committee notes from the Government's report that significant progress has been made in extending the availability of childcare services and facilities. Municipalities are required under the revised Child Welfare Law to provide nursing care when the child's parents or guardians cannot care for the child due to work, illness or other reason. A "Child and Childrearing Support Plan" was formulated in December 2004 and a concentrated effort is being made to improve the situation in municipalities where more than 50 children are on waiting lists for child care. In addition, the Law concerning the promotion of comprehensive provision of education, childcare, etc. concerning preschoolers entered into force in October 2006. The law establishes a system of certified childcare centres. The Committee understands that under the General Action Plan to Support the Development of the Next Generation, local authorities and employers are obliged to establish and implement their own action plans to support childcare. ***The Committee requests the Government to continue to provide information on the application of Article 5 of the Convention, including on the measures taken by local authorities and private and public sector employers to develop childcare services and facilities open to all workers with family responsibilities.***

Article 6. Public understanding of the principle of gender equality and the problems of workers with family responsibilities

13. The Committee notes the Conference Committee's conclusion that it is important to address the situation of men and women workers with family responsibilities in order to make progress in achieving equality. JTCU-RENGO states in their 2006 comments that only a small percentage of men request childcare or family care leave, and JTUC-RENGO states that special measures need to be taken to encourage men to take such leave. JTUC-RENGO also regrets that the notion of work-family balance was not incorporated into the Equal Employment Opportunity Law in the context of its 2006 revision. The FY2003 Annual Report on the State of Formation of a Gender-Equal Society published in 2004 indicates that according to a 2002 survey, only 0.33 per cent of male workers took childcare leave in 2002 compared to 64 per cent of female workers. The Government acknowledges that the number of male workers taking childcare leave was still very low. It indicates that the extent to which men are taking such leave was now one of the criteria in the certification of companies under the Law on Measures to Support the Development of the Next Generation. The Government also supports 200 enterprises carrying out a model initiative to promote the participation of men in child-raising. The Second Basic Plan for a Gender-Equal Society approved by Cabinet in December 2005 included support for work-life balance for both sexes as a priority subject.

14. The Committee encourages the Government to intensify its efforts to promote awareness of the need to address work-family issues as a matter of concern to men and women and to promote the sharing of family responsibilities between men and women, as envisaged in Paragraph 11 of Recommendation No. 165. The Committee recommends that further measures be considered targeting men. ***The Committee requests the Government to provide information on the measures taken to promote awareness of the problems faced by workers with family responsibilities and the need to address them, as well as on the measures taken to ensure that work-life issues are being addressed as a matter of concern to men and women. Please provide statistical information on the extent to which men and women use the various measures available to facilitate reconciliation between work and family responsibilities.***

Article 8. Termination of employment

15. In its previous comments the Committee noted that the protection from termination available under article 1(3) of the Civil Code (abuse of rights) and under the Childcare and Family Care Leave Law (prohibition of dismissal due to requesting or taking leave) was both too general, and narrower than that contemplated in *Article 8* of the Convention. The Conference Committee concluded with regard to protection against termination of employment due to family responsibilities that the Government should examine whether the current legislation provides for an appropriate basis for the prevention of and protection against such discrimination in practice, in the light of the comments of the Committee of Experts.

16. The Committee notes that the Government in its report, points out that fixed-term workers, to the extent that they are within the scope of the Childcare and Family Care Leave Law, following its amendment in 2004, now benefit

from the protection available under articles 10 and 16. In addition, the Committee notes that the protection from dismissal now also applies to leave to care for a sick child (article 16-4). The 2004 Guidelines state that workers should not be dismissed or otherwise disadvantaged for having applied for a limitation of working hours or night work (Part II, paragraphs 4(2) and 5(4)). The Committee also notes that JTUC–RENGO expresses regret that the issue of family responsibilities was not included in the Equal Employment Opportunity Law during its 2006 revision. ***The Committee requests the Government to indicate in its next report the measure taken to examine, in cooperation with workers' and employers' organizations, whether the current legislation provides for an appropriate basis to prevent and protect workers from dismissal due to family responsibilities. Please indicate the outcome of this examination and any measures taken to ensure that the guarantees of Article 8 are fully applied in law and practice. The Committee also requests the Government to continue to provide judicial decisions relating to the above provisions.***

Jordan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1966)

Article 1(b) of the Convention. Work of equal value in national legislation. In previous comments the Committee had noted that section 23(ii)(a) of the Constitution, which specifies that all workers shall receive wages appropriate to the quantity and quality of the work achieved, was inadequate for the application of the principle of the Convention. The Committee notes that the Government indicates in its report that the current legislation is based on the principles that the value of the wages shall be subject to the quantity of the work and the manner in which it is performed, and that equality is established in accordance with the value of the work performed regardless of the gender of the person performing it. The Government further states that the definition of wages in the Labour Code and the fact that the Labour Code defines “worker” as “any person male or female, who performs work for remuneration” reiterate these principles. Noting the explanations given by the Government, the Committee must emphasize however that the narrow formulation of section 23(ii)(a) of the Constitution and the provisions in the Labour Code do not ensure the application of the principle set out in the Convention. While objective criteria such as quality and quantity of work may be used to determine the level of earnings, it is important that the use of such criteria does not have the effect of impeding the full application of the principle of equal remuneration for men and women for work of equal value. ***The Committee must underscore the importance of ensuring that women who undertake different work from men but work that is nevertheless of equal value based on objective job evaluation criteria, such as responsibility, skill, effort and working conditions, are paid equal remuneration. Having noted previously the significant wage gap between men and women, especially in the private sector, and the fact that the labour market is highly sex-segregated, the Committee asks the Government to provide information with its next report on the legislative or other regulatory measures which have been taken or are envisaged to ensure the full implementation of the principle of equal remuneration for men and women for work of equal value.***

The Committee is raising other points in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1963)

1. *Access of women to the public service.* For a number of years, the Committee has requested the Government to take specific measures with respect to its recruitment and training policies to achieve an overall increase in the participation of women in the public service, particularly at the higher levels. The Committee notes that the Government in its report reaffirms that the selection and appointment of employees in the public service occurs in accordance with the standards that guarantee equality between men and women without discrimination, and indicates that in 2004 women represented 49 per cent of the persons appointed in the public service. The Government further refers to its policy to build the capacity of civil service employees through their participation in missions and training sessions without discrimination, and provides statistics indicating that in 2004 out of the 977 missions and sessions exceeding one month, 410 were undertaken by women. While appreciating this information, the Committee nevertheless notes from the 2005 statistics on the distribution of men and women in different occupational categories of the civil service, that women continue to be disproportionately employed in Category 4 (administration) positions, while men dominate Category 1 (supervisory) and Category 2 (technical specialist) positions. Concerned about the slow progress in achieving a more equitable balance between men and women in the public service, and particularly at higher levels, the Committee recalls the Government's obligation to take proactive measures to implement the national policy on equality in respect of employment under its direct control, in accordance with *Article 3(d) of the Convention*. ***The Committee urges the Government to step up its efforts in this regard, including by exploring the underlying causes of the existing imbalance, and to demonstrate the results of these efforts in its next report.***

2. *Equal access of men and women to vocational training and education.* With respect to the measures taken to improve women's educational attainment, technical skills and experience, the Committee notes from the information in the Government's report that out of the 774 graduates of the training project targeting vocational competencies, only 102 were women. Under the national training project, 48.8 per cent of the graduates were women, 40.65 per cent of whom found employment. However, for the project targeting the clothing industry, out of the 4,076 graduates, 3,063 were women; they represented 75.15 per cent of the 40.64 per cent of those who found employment. The Committee, while

appreciating the efforts taken by the Government to improve women's technical skills, must note that these statistics do not give information on the specific courses provided, nor on how women's participation in these training projects has helped to diversify women's employment opportunities. It is, therefore, bound to conclude that without further details about the type of vocational courses in which women participate, women's participation in vocational training appears to remain focused on traditional and so-called feminine sectors of employment such as the clothing industry. ***As access to vocational training and education is critical to the advancement of women's employment and occupation, the Committee urges the Government to take the necessary measures to ensure that the type of training available to women does not inhibit their chances to compete on an equal basis with men for a wider range of employment opportunities, including at higher levels, and provide information in its next report demonstrating the progress made in this regard, as well as in providing training of women in non-traditional sectors.***

3. *National policy on equality on other grounds.* The Committee notes with regret that the Government's report once more fails to provide information on how the Government is promoting a national policy of equality of opportunity and treatment in employment and occupation with respect to grounds other than sex. ***The Committee, therefore, urges the Government to indicate in its next report the specific measures taken to ensure and promote in law and in practice equality of opportunity and treatment and protection against direct and indirect discrimination in recruitment and training of nationals and non-nationals on the grounds of race, colour, religion, national extraction, political opinion and social origin.***

The Committee is also raising other and related points in a request addressed directly to the Government.

Republic of Korea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1998)

1. *Article 1(a). Equality of opportunity and treatment on the grounds of race, colour and national extraction.* The Committee notes the communication of the International Confederation of Free Trade Unions (ICFTU) dated 6 September 2005, and the response of the Government thereto, dated 24 May 2006. The ICFTU expressed concern that the inflexible nature of the Industrial Trainee System, allowing foreign workers to enter the country as trainees, and the employment permit system, under the Employment of Foreign Labourers Act, 2004, make migrant workers excessively dependent on the employer and thus vulnerable to exploitation and abuse, and also inhibits their mobility and access to higher-paying jobs. In order to move to higher-paying jobs, the ICFTU states that migrant workers then become undocumented, and consequently are even more vulnerable to pressure from their employer and risk deportation. The ICFTU also expressed concern that the Government is forcibly expelling undocumented foreign workers, in effect adhering to a policy of discrimination. The Committee notes that the Government acknowledges that there were considerable problems with the Industrial Trainee System, and states that the system is being abolished, and that the nation's foreign worker system will be placed under a single Employment Permit System, effective 1 January 2007. With respect to the allegation of restrictions on workforce mobility, the Government states that such a measure is "inevitable" to prevent confusion and to resolve workforce shortages. The Government also states that some mobility is, however, permitted. The Committee further notes the Government's assertion that basic labour rights of both native workers and foreign workers who are legally employed are ensured. The Committee also notes that the Government is taking measures to induce the voluntary departure of foreign workers.

2. The Committee notes that all the grounds set out in the Convention are to apply equally to migrant workers and nationals. As a result, schemes and policies related to migrant workers should not result in discrimination based on race, colour, national extraction, sex, religion, social origin or political opinion. Where a system of employment of migrant workers places those workers in a particularly vulnerable position and provides employers with the opportunity to exert disproportionate power over them, this could result in discrimination against migrant workers on the basis of the grounds listed in the Convention, in particular race, colour and national extraction. ***The Committee requests the Government to provide further details on the nature and extent of the Government incentives that have been put in place to induce foreign workers' voluntary departure. The Committee also requests further information regarding the Employment Permit System, in particular how this system ensures that migrant workers are protected against discrimination on the grounds listed in the Convention, including based on race, colour and national extraction. Please also provide information on any other measures that have been taken or are envisaged to ensure migrant workers are not discriminated against in practice on the grounds enumerated in the Convention. The Committee would also welcome information on the number and nature of complaints made by migrant workers to the courts or administrative bodies, and the results thereof.***

3. *Legislative protection.* ***Noting that the Government has not yet forwarded a reply to the Committee's previous observation, the Committee reiterates its request for information on the practical application of the relevant provisions of the National Human Rights Commission Act, including on the nature and outcome of any petitions filed, or investigations or surveys conducted under the Act with respect to employment and occupation.***

The Committee is raising other points in a request addressed directly to the Government.

Latvia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)

1. *Discrimination based on national extraction.* The Committee notes that the Government's report does not contain any information in reply to its previous comments concerning the application of the State Language Law and its implementing regulations with regard to access to employment and occupation, and the need to promote equal employment opportunities for all ethnic and linguistic minority groups. ***The Committee, therefore, urges the Government to provide in its next report information on the application of the State Language Law and its implementing regulations, including information on any measures taken to assess the impact of these measures on the employment opportunities of ethnic minority groups, and information on any relevant administrative and judicial decisions and sanctions imposed for violations of its provisions. It also reiterates its request to the Government to provide information on the efforts made to promote equal employment opportunities of these groups, including through language training.***

2. *Discrimination based on political opinion.* The Committee notes that once again the Government has failed to provide any information requested by the Committee concerning certain provisions of the national legislation that amount to or may result in discrimination based on political opinion with regard to access to public service employment (section 7(8) of the State Civil Service Act, 2000, and section 28 of the Act on Police, 1999). ***The Committee, therefore, urges the Government to provide in its next report indications as to the number of persons who have been dismissed or excluded from being candidates for employment in the civil service and the police on the basis of these provisions, as well as any administrative or judicial decisions issued in cases where affected persons have appealed against their exclusion or dismissal.***

3. In its previous comments the Committee noted that under section 8(9) of the State Civil Service Act, it is a mandatory requirement to qualify as a candidate for a civil service position that the person concerned is not or has not been a participant in organizations prohibited by law or judicial decision. ***The Committee urges the Government once again to provide information on the application of this provision, including the requirements for the prohibition of organizations, a list of all prohibited organizations, as well as indications as to the number of persons that have been excluded from being a candidate for a civil service position based on section 8(9) of the State Civil Service Act.***

The Committee is addressing a request directly to the Government on other matters.

Liberia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)

The Committee notes that the Government's report has not been received.

Having previously noted that there was no legislation or national policy to implement the Convention, the Committee hopes the Government will soon be in a position to provide full information on any administrative, legislative or other measures which are explicitly designed to eliminate discrimination based on all of the seven grounds prohibited by the Convention (race, colour, sex, religion, political opinion, national extraction or social origin) and to promote equality of opportunity and treatment in respect of employment and occupation. The Committee also requests the Government to provide full information on how the Convention is applied in practice in conformity with Parts II to V of the report form.

Lithuania

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1994)

1. *Assessment of the gender remuneration gap.* The Committee recalls the observations dated 31 August 2004 from the trade union Lietuvos Darbo Federacija (LDF), which were forwarded to the Government on 25 October 2004. LDF states that, while the legislation provided for equal remuneration for men and women, a gap between the wages earned by men and women continued to exist. The Committee notes that, according to data published by Statistics Lithuania, between 2000 and 2003 the gender remuneration gap for average monthly gross earnings increased from 18.2 per cent to 19 per cent, while it decreased to 17.6 per cent in 2005. The gender remuneration gap in the public sector remains wider than in the private sector. For the public sector it increased from 23 per cent in 2000 to 25.2 per cent in 2002, and then decreased to 22.1 per cent in 2005. However, the Committee is concerned that since 2000 the gender remuneration gap in the private sector has increased, from 15.6 per cent in 2000 to 17.9 per cent in 2005. ***The Committee asks the Government to provide detailed information on the measures taken to address the existing gender remuneration gap and to assess and indicate to the Committee the causes of the widening of the gender remuneration gap in the private sector and the measures taken to reverse this negative trend. It also asks the Government to continue providing full statistical information concerning the earnings of men and women according to sector, economic activity, and occupation.***

2. *Articles 3 and 4 of the Convention. Objective job appraisals. Cooperation with workers' and employers' organizations.* The Committee notes the Tripartite Council approved a "Methodology for the Assessment of Jobs and Positions" in 2005, recommending them for use by enterprises, institutions and organizations. As indicated by the Government, one of the objectives of the Methodology is to reduce differences between remuneration received by men and women. A bilateral agreement between trade unions and employers' organizations on the application of the Methodology was signed on 13 June 2005. The agreement recommends that heads of undertakings and trade unions apply the Methodology in practice and provide for this in collective agreements. The Committee also notes that the Methodology was presented during a number of tripartite meetings and workshops and that it has been published as a brochure and on the Internet web site of the Council. In addition, the secretariat of the Tripartite Council agreed to hold, upon request, workshops and consultations on the application of the Methodology for workers' and employers' representatives. ***The Committee notes this tripartite initiative with interest and asks the Government to continue to provide information on the application in practice of the "Methodology for the Assessment of Jobs and Positions", including information on how collective agreements have been used to promote objective job evaluation as a means to ensure that remuneration for men and women is determined in a non-discriminatory manner. The Committee also asks the Government to provide information as to the number of undertakings applying the Methodology and on the measures taken to monitor the impact of their use on the remuneration levels of men and women.***

The Committee is raising other points in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1994)

1. *Practical application.* The Committee notes the observations dated 31 August 2004 received from Lietuvos Darbo Federacija (LDF) concerning the application of the Convention, which were forwarded to the Government on 25 October 2004. According to the LDF, workers continued to experience discrimination based on gender, age, sexual orientation and family status despite the fact that the Labour Code prohibits such treatment. The LDF also states that most of the unemployed were older persons and that employers frequently inquire into the family situation of workers, a practice particularly affecting women. ***The Committee observes that Lithuania has adopted a number of legal provisions implementing the Convention and it urges the Government to take all necessary steps to ensure that the legislation is known, understood and observed in practice. It requests the Government to provide information on the measures taken to this end, as well as indications as to the number, nature and outcome of cases concerning discrimination in employment and occupation which have been addressed by the competent authorities.***

2. *Discrimination on the basis of political opinion.* The Committee recalls its previous comments regarding section 9(6)(3) of the Act on Civil Service of 8 July 1999 (No. VII-1316), which provided that former staff officers of the USSR State Security Committee shall not be eligible for the civil service. The Committee expressed concern that this provision could amount to discrimination on the ground of political opinion. The Committee requested the Government to confirm that the exclusion established under section 9(6)(3) of the Act on Civil Service had been abolished and to provide a copy of the Act as in force. The Government was also asked to indicate any additional grounds for non-eligibility that may have been adopted in any laws.

3. The Committee notes that the Government's report contains no information concerning these matters. It nevertheless notes from the official translation published by the *Seimas* of the Act on Civil Service of 8 July 1999 (No. VII-1316), as amended on 23 April 2002 (No. IX-855), that section 9(6)(3) has been repealed, while the new section 9(3) states generally that persons shall not be eligible for the civil service in case this is provided for by other laws. The Committee also notes that restrictions not only in respect of access to employment in the civil service but also in the private sector are provided for in the Act on the Evaluation of the USSR State Security Committee (NKVD, NKGB, MGB, KGB) and the Present Activities of Former Permanent Employees of the Organization of 16 July 1998, which entered into force on 1 January 1999 ("SSC Act"). Section 2 of the SSC Act provides as follows:

For a period of ten years from the date of entry into force of this Act, former employees of the SSC may not work as public officials or civil servants in government, local or defence authorities, the State Security Department, the police, the prosecution, courts or diplomatic service, customs, State supervisory bodies and other authorities monitoring public institutions, as lawyers or notaries, as employees of banks and other credit institutions, on strategic economic projects, in security companies (structures), in other companies (structures) providing detective services, in communications systems, or in the educational system as teachers, educators or heads of institutions[;] nor may they perform a job requiring the carrying of a weapon.

(Judgement of 27 July 2004, in the case of *Sidabras and Džiautas v. Lithuania*, paragraph 24)

4. The Committee notes that the European Court of Human Rights, in its judgement of 27 July 2004, in the case of *Sidabras and Džiautas v. Lithuania*, held that the restrictions imposed under the SSC Act on the applicants to apply for private sector jobs violated their rights under article 14 (prohibition of discrimination) in conjunction with article 8 (private life) of the European Convention on Human Rights. Taking the Committee of Expert's surveys and observations concerning similar situations into account, the Court held that section 2 of the SSC Act was a disproportionate measure. In the Court's view, such a legislative scheme must be considered as lacking the necessary safeguards for avoiding discrimination and for guaranteeing adequate and appropriate judicial supervision of the imposition of such restrictions (paragraph 59). In the case of *Rainys and Gasparavičius v. Lithuania* (judgement of 7 April 2005), the Court reached the

same conclusion in respect of the applicants' dismissal from private sector jobs on the basis of their status as "former permanent employees of the SSC".

5. The Committee also notes that the European Committee on Social Rights, in its 2006 conclusions concerning Lithuania, considered that the situation described above was not in conformity with the European Social Charter. That Committee concluded that while the measures in question served the legitimate purpose of protecting national security, they are not necessary and proportionate in that they apply to a large field of employment and not solely to those services which have responsibilities in the field of law and order and national security or to functions involving such responsibilities.

6. The Committee recalls that Convention No. 111 provides protection from discrimination in respect of access to employment and work in the public and private sectors. It recalls that requirements of a political nature can be set for a particular job but, to ensure that they are not contrary to the Convention, they should be limited to the characteristics of a particular post and be in proportion to its labour requirements. The Committee observes that the exclusions provided for under section 2 of the SSC Act apply broadly to employment in the public sector and to parts of the private sector rather than to specific jobs, functions or tasks (with the exception of the references to "lawyers or notaries", and "teachers and educators or heads of institutions" in educational institutions). The Committee is concerned that these provisions appear to go beyond justifiable exclusions in respect of a particular job based on its inherent requirements as provided for under *Article 1(2) of the Convention*. It recalls that in order to ascertain whether a distinction could be permissible under *Article 1(2)*, careful examination of each individual case is required. For measures not to be deemed discriminatory under *Article 4*, they must be measures affecting an individual on account of activities he or she is justifiably suspected of, or proven to be engaged in, which are prejudicial to the security of the State. The application of such measures must be examined in the light of the bearing which the activities concerned may have on the actual performance of the job, task or occupation of the person concerned. The Committee also notes that in cases where persons are deemed to be justifiably suspected of or engaged in activities prejudicial to the security of the State, the individual concerned shall have the right to appeal to a competent body in accordance with national practice. As stressed in the Committee's 1996 Special Survey, it is important that the appeals body is competent to hear the reasons for the measures taken against the appellant and to afford her or him the opportunity to represent her or his case in full (paragraph 129).

7. The Committee considers that the broad exclusion of "former permanent SSC employees" from work in the private and public sectors is not sufficiently well-defined and delimited to ensure that it does not lead to discrimination in employment and occupation based on political opinion. The Committee is concerned that the operation of this scheme may have deprived a considerable number of workers of their human right to equality of opportunity and treatment in employment and occupation. *While noting that the scheme provided for under the SSC Act is due to expire on 1 January 2009, the Committee urges the Government to revise the provisions concerned and, in doing so, to have recourse to the indications provided by the Committee in its General Survey on equality in employment and occupation of 1988, in particular paragraphs 126, and 135–137, and of paragraphs 192–202 of the Special Survey of 1996.*

8. *The Committee requests the Government to provide information on the measures taken to bring the legislation concerned into conformity with the Convention. It also requests the Government to provide detailed information on the practical application of the SSC Act, including information on the following:*

- (a) *the number of persons that are considered "former permanent SSC employees" and the number of such persons that have been dismissed from private or public employment or who had their application rejected;*
- (b) *the procedural protections of appellate review available to affected persons, and information on the outcome of any administrative or judicial decisions relevant to the application of these provisions; and*
- (c) *any measures taken or envisaged to remedy the situation of persons excluded from employment and occupation as a result of national law and practice that is contrary to Lithuania's international obligations.*

The Committee is raising other points in a request addressed directly to the Government.

Madagascar

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)

1. *Articles 1 and 2 of the Convention. Discriminatory provisions in collective agreements.* The Committee recalls its previous observation regarding the unequal remuneration for male and female on-board staff of Air Madagascar, resulting from the difference in the retirement age, which is set at 50 years for men and 45 for women by the applicable collective agreement. It recalls that the Arbitration Council of the Court of First Instance of Antananarivo had declared the relevant provisions of the collective agreement inapplicable on 28 November 1997 on the ground that they constituted discrimination on the basis of sex. On the same matter, the Supreme Court of the Republic of Madagascar had ruled in its judgement of 5 September 2003 in the case of *Dugain and others v. Air Madagascar* that the courts may annul provisions of collective agreements when they are contrary to public order or to international conventions protecting the rights of women, including the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The case had then been sent back to the lower court.

2. The Committee notes from the information provided with the Government's report that the lower court, in its interlocutory judgement No. 01 of 3 February 2005, has stayed its final decision on the matter until the Arbitration Council has rendered its judgement on the appeal lodged by Air Madagascar against the ruling of November 1997. ***The Committee asks the Government to keep it informed of the progress and the outcome of these proceedings in its next report. It also reiterates its request for information on the impact of these decisions on the employment and remuneration of the relevant male and female staff, as soon as such information is available.***

The Committee is raising other points in a request addressed directly to the Government.

Malawi

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1965)

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

1. *Application of the principle in the civil service.* For a number of years, the Committee has been asking the Government to provide statistical information disaggregated by sex that would enable it to assess the application of the Convention in the civil service. The Committee notes that a new civil service job grades and salary structure came into effect in October 2004 which consist of 18 grades and salary scales, ranging from A (the highest) to R (the lowest). It also notes with some regret that the Government continues to provide its previous explanations that it is not possible to provide sex-disaggregated statistics on the civil service because salaries apply across the board and therefore apply equally to men and women. At the same time, the Government indicates that women occupy only 14.3 per cent of managerial positions in the civil service from grades S4/P4 and above which, under the new system, correspond to grades "E" to "A". Noting the low percentage of women holding managerial posts, the Committee points out once again that one of the causes of pay differentials between men and women is horizontal and vertical occupational segregation of women into lower paying jobs or occupations and lower positions without promotion opportunities. The Committee also points out that statistical information on the employment of women and men according to occupational groups, and their corresponding salary levels, is essential to allow an adequate evaluation of the nature, extent and causes of the pay differentials between men and women. ***It therefore asks the Government:***

- (a) ***to provide information on the measures taken or envisaged to promote the principles of the Convention through policies aimed at labour market desegregation (e.g. promoting equal access of women to all occupations and economic sectors and to jobs with decision-making and management responsibilities), and their impact on reducing the remuneration gap between men and women; and***
- (b) ***to provide statistical information, disaggregated by sex, on the participation of men and women in employment in all the different grades of the public service, and their corresponding salary levels.***

2. *Wage disparities between men and women in rural areas.* The Committee draws the Government's attention to its previous observation in which it had commented on the communication submitted by the International Confederation of Free Trade Unions (ICFTU) concerning the discrimination faced by rural women. It had also noted the Government's indication that some wage disparities existed between men and women workers in rural areas and that in some cases employers were paying employees less than the recommended statutory minimum wage. In this regard, the Committee had referred to the need to take measures to inform employers and men and women in rural areas about the requirements of the Convention and the national legislation concerning equal pay. The Committee notes the Government's statement that the labour inspectors have taken on this task and that there are no wage differences between men and women in rural areas. The Government further explains that Malawi has a two-tier minimum wage system which applies to all sectors but that no minimum wages have been set for the agricultural sector. Moreover, in most agricultural undertakings women prefer to work fewer hours than men because of family and household responsibilities.

3. The Committee reminds the Government that the minimum wage is a significant means of ensuring the application of the principle of equal remuneration for men and women for work of equal value. Furthermore, it wishes to emphasize the importance of promoting measures to facilitate reconciliation of work and family responsibilities and the equal sharing of family responsibilities between men and women in order to promote the application of the Convention. ***Accordingly, the Committee asks the Government:***

- (a) ***to indicate whether it intends to establish a minimum wage for the agricultural sector or to adopt any other appropriate measures in order to ensure improved application of the principle of equal remuneration for work of equal value for men and women workers in this sector;***
- (b) ***to indicate the measures taken or envisaged to assist rural women in reconciling their work and family responsibilities and to promote a more equitable sharing of family responsibilities between men and women workers; and***
- (c) ***to provide statistical data, disaggregated by sex, on the number of men and women employed in agricultural undertakings, and their corresponding occupations, earning levels and hours of work, and to continue to keep the Committee informed of any wage disparities between men and women reported by the labour inspection services in remote rural areas, and the corrective action taken.***

The Committee is raising other points in a request addressed directly to the Government.

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (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:

Equality of treatment between men and women

1. *Articles 1 and 3 of the Convention.* The Committee recalls its previous observation which, among other issues, addressed the low number of managerial posts held by women in the public service (11.2 per cent at the P2/S2 ranks and 10.38 per cent in the P3/S3 ranks), the very high adult female illiteracy rate (71 per cent) and the low level of education, especially of rural women, and the discrimination they face in accessing productive resources that would improve their working and living conditions. These issues had also been the subject of comments raised by the International Confederation of Free Trade Unions (ICFTU) in 2002. The Committee had noted the Government's reply that it was committed to reaching a target of 30 per cent of women in political and decision-making structures by 2005. It also noted the Government's efforts to correct disparities in educational opportunities for girls and boys such as, among others, the girls' attainment of basic literacy and education (GABLE) programme, and providing credit facilities to rural women. ***The Committee would appreciate receiving further information on the implementation of the abovementioned initiatives, including the results achieved.***

2. *Access of women to the public service.* Further to its observation on Convention No. 100, the Committee notes from the new civil service job grades and salary structure that the managerial positions P4/S4 and above now correspond to grades "E" to "A". The Committee also notes the Government's explanations that the statistics of July 2004 show that women in managerial positions from P4/S4 and above total 14 per cent. However, it must observe that this information merely confirms previous figures without providing further details on the specific measures taken to promote women's employment in those public service posts in which they are under-represented, and to reach the target of 30 per cent. The Committee recalls the importance of the State's responsibility in pursuing a policy of equality of opportunity and treatment in respect of employment under its control. ***It therefore requests the Government to indicate in its next report the measures taken or envisaged, especially with regard to its recruitment policy and further training policy, to achieve an overall increase in the participation of women in higher level posts in the public service. Please also provide statistical information, disaggregated by sex, on the results obtained.***

3. *Equality of opportunity and treatment with respect to productive resources.* With respect to access of rural women farmers to productive resources, the Committee notes that the National Association for Business Women (NABW) has trained 15,000 women in rural and urban areas on how to run small businesses and that the Foundation for International Community Assistance (FINCA) has assisted women in rural areas by providing them with soft loans as a way of reducing unemployment and poverty. While welcoming the abovementioned initiatives, the Committee also notes from the information submitted by the Malawi Congress of Trade Unions (MCTU), dated 26 December 2004, on Convention No. 100, that rural women face tough loan conditions, especially from FINCA, a situation which is, however, denied by the Government in its reply received on 14 October 2005. ***It asks the Government to provide information on the measures taken or envisaged to facilitate access to soft loans for rural women and to continue to supply information on the number of rural women who have benefited from the abovementioned credit facilities. Please also provide information on any other measures taken or envisaged to enhance equal opportunity and treatment for rural women in productive employment, and the results achieved.***

4. *Access to education.* The Committee notes the Government's statement that it is continuing the GABLE programme and that a number of girls have been admitted to university under its policy to facilitate women's admission to university. ***Noting that the Government intends to supply the statistical data requested on women's and girls' educational attainment and on the results achieved of its programmes to correct disparities in education for girls and boys, the Committee trusts that such statistics will be included in the Government's next report.***

The Committee is raising other and related points in a request addressed directly to the Government.

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

Malaysia***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)***

1. *Articles 1 and 2 of the Convention. Application in law and practice.* In its previous comments, the Committee expressed concerns over the fact that neither the Constitution, the Employment Act nor the Wages Council Act prohibit discrimination in remuneration based on sex, and that the definition of wages in the Employment Act and Wages Council Act does not encompass benefits in kind and excludes certain elements of remuneration as defined in the Convention. Noting indications by the Government that the principle of equal remuneration for work of equal value was nevertheless ensured through labour inspections, the Committee asked it to provide information on the action taken by labour inspectors to identify and address violations of the Convention's principle. The Committee also noted that so far the Industrial Court had examined no cases concerning equal remuneration.

2. The Committee notes the Government's statement that the prohibition of gender discrimination introduced in article 8 of the Constitution in 2001 includes employment and payment of wages. The Government also states that, while the legislation does not specifically require equal remuneration for men and women, it is the practice to provide equal pay for work of equal value. Concerning the definition of wages in the legislation, the Government states that there are no plans to include benefits in kind in the definition of wages in the Employment Act. Further, the tripartite committee set up by the Ministry of Human Resources in 2001 to review labour legislation did not address the issues of discrimination in remuneration based on sex. According to the Government, the absence of court cases concerning equal remuneration is due to the fact that wages were mutually agreed between employers and workers. Finally, the Committee notes that the information provided by the Government on labour inspection relates to cases of non-payment of wages rather than discrimination in remuneration based on sex.

3. The Committee notes that article 8(2) of the Constitution, as amended in 2001, provides that, except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent, gender or place of birth, in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or

carrying on of any trade, business, profession, vocation or employment. While the Committee welcomes that the ground of gender has been added to the non-discrimination provision of the Constitution, it also notes that, as indicated by the Government to the Committee on the Elimination of Discrimination against Women in 2005 (CEDAW/C/MYS/Q/2/Add.1, pages 10–11), article 8 of the Constitution protects individuals only from discrimination by the State or its agencies and provides no protection from discrimination in private employment or collective agreements. Further, the Committee notes that article 8 does not fully set out the principle of equal remuneration for work of equal value. It therefore remains concerned about the lack of a provision for equal remuneration reflecting the Convention's principle in the employment and minimum wage legislation.

4. In the Committee's view, rather than indicating an absence of discrimination, the lack of any cases being brought concerning discrimination in remuneration based on sex or gender may in fact indicate a lack of appropriate legal basis or procedures for bringing such claims, or a lack of awareness of the principle of the Convention and the existing remedies available under the law. The fact that the wage is mutually agreed between the worker and the employer by no means excludes the occurrence of pay discrimination. Further, in the light of the information provided by the Government concerning labour inspection, it remains unclear how the Department of Labour ensures the application of the principle of equal remuneration in practice, particularly in the absence of any explicit legal provision.

5. Noting the concerns expressed by the Committee on the Elimination of Discrimination against Women about the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in society which it considered as root causes of the disadvantaged position of women in the labour market (CEDAW/C/MYS/CO/2, 31 May 2006, paragraph 15), the Committee emphasizes that such stereotypes and attitudes regularly result in gender-biased undervaluation of work performed by women and discrimination in the determination of wages, benefits and other forms of remuneration received by them.

6. *On the basis of the above, the Committee considers that specific measures should be taken, in consultation with employers' and workers' organizations, to ensure the full application of the Convention in law and in practice. The Committee asks the Government to provide information on the following:*

- (a) *the specific measures taken or envisaged to review the legislation, with a view to giving legislative expression to the principle of equal remuneration for men and women for work of equal value, taking into account that equality must extend to all elements of remuneration as defined in Article 1(a) of the Convention;*
- (b) *any measures taken to promote awareness and understanding of the Convention's principle among workers and employers (as well as judges and other competent public officials);*
- (c) *the action taken and the methods used by labour inspectors to identify and remedy violations of the principle of equal remuneration; and*
- (d) *cases concerning discrimination based on sex in respect of remuneration examined by the courts, including relevant jurisprudence concerning article 8 of the Constitution.*

The Committee is raising other matters in a request addressed directly to the Government.

Malta

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1988)

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

Articles 1 and 2 of the Convention. Application in law. The Committee notes with interest the adoption on 9 December 2003 of the Equality for Men and Women Act (No. 1), 2003, prohibiting direct and indirect discrimination based on sex or family responsibilities, as well as the adoption in December 2002 of the Employment and Industrial Relations Act (No. 22), 2002. Further to previous comments, it notes with satisfaction that section 27 of the Employment and Industrial Relations Act sets out the principle of equal remuneration for men and women workers for work of equal value and that the definition of wages is sufficiently broad to include other emoluments (section 2), in accordance with *Article 1 of the Convention*. It further notes that a worker alleging unequal payment for work of equal value may, within four months of the alleged discrimination, lodge a complaint with the Industrial Tribunal (section 30(1)) and that such workers are protected against victimization (section 28). *The Government is asked to provide information on the application and impact of these new legal provisions in relation to promoting equal remuneration between men and women.*

The Committee is raising other points in a request addressed directly to the Government.

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1968)

The Committee notes that the Government's report has not been received. It hopes that the Government will make every effort to provide information on the following matters for consideration at the Committee's next session.

1. *Article 1 of the Convention. Prohibited grounds of discrimination.* The Committee recalls the enactment of the Employment and Industrial Relations Act (No. 22 of 2002) in December 2002 and notes the subsequent adoption of the Equal

Treatment in Employment Regulations of 5 November 2004 (S.L. 452.95). It notes that taken together, these instruments set out the principle of equal opportunity in employment and occupation for men and women workers and prohibit discrimination on all the grounds under *Article 1(1)(a)* of the Convention except for social origin. ***The Committee requests the Government to provide information with its next report on the measures taken or envisaged in law and in practice to address discrimination on the ground of social origin in accordance with the Convention.***

2. Recalling its previous comment with regard to equality of opportunity and treatment of men and women, the Committee requests the Government to provide information with its next report on the measures taken or envisaged by the National Commission for the Promotion of Equality for Men and Women to promote gender equality and to provide a copy of its annual report, once it has been issued. Please also supply information on the implementation and impact of the Equality for Men and Women Act.

The Committee is raising other points in a request addressed directly to the Government.

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

Mauritania

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1963)

1. Article 1 of the Convention. Discrimination on the basis of race, colour, national extraction and social origin. The Committee recalls the allegations by the Free Confederation of Workers of Mauritania (CLTM) that certain Mauritaniens, in particular slaves, former slaves and descendants of slaves, are unpaid or underpaid, and that they do not have equal opportunities in employment due to discriminatory practices in recruitment, occupation and classification. The CLTM further alleges that the system allows public and private establishments to violate the laws on a daily basis with impunity and to discriminate in recruitment on the basis of social origin and political affiliation. The Government responds that the CLTM's allegations are implausible and that all Mauritaniens enjoy the same rights, including the black communities, with regard to access to employment. ***Noting that the Government does not provide an assessment of the labour market situation of ethnic minorities, the Committee again asks for information on the active measures taken to promote equal access of disadvantaged social and ethnic groups to training, employment and occupation irrespective of their race, colour or social origin. Further recalling the importance of collecting statistical data to assess the impact and progress of the Government's non-discrimination policy and to determine the need for special measures to be taken with regard to certain disadvantaged groups, the Committee hopes the Government will be able to provide such information in its next report.***

2. The Committee recalls the Government's statement that there are no disadvantaged ethnic groups in Mauritania because in the past, social stratification and slavery existed in each of the four main ethnic groups (Moors, Pulaar, Soninké and Wolof). Recalling that section 395(2) of the Labour Code of 2004 prohibits discrimination on the basis of social origin and that employers are obliged under section 104 to respect the principle of non-discrimination in recruitment, the Committee reminds the Government that prejudices and preferences based on social origin may still persist even when rigid stratifications in society have disappeared, and that former slaves and their descendants may continue to face discrimination in employment and occupation due to their social origin, as is alleged by the CLTM. The Committee notes the Government's indication that it has demonstrated good faith in this regard, having accepted the direct contacts mission in 2004 on the Forced Labour Convention, 1930 (No. 29), as well as investigations in 2006. The Committee acknowledges the Government's cooperation and recalls, in this respect, its adoption of the Strategic Framework on the Fight against Poverty to reduce inequalities and respond to the basic needs of the most deprived. ***The Committee again asks the Government to provide information on the measures taken or contemplated under this Framework to improve the levels of training and employment as well as the social mobility of the most disadvantaged men and women of all ethnic groups, and in particular the former slaves and their descendants, and to reduce discriminatory practices against them with respect to employment and occupation, and especially recruitment. The Committee also requests the Government to provide information on the measures taken to ensure effective and impartial supervision by the labour inspectorate of discriminatory practices and to guarantee the right of workers to effective legal remedies when they consider they are being discriminated against. It refers in this connection to the comments being made under Convention No. 29 on the strengthening of labour inspection.***

3. The Committee continues its follow-up to the recommendations made in 1991 by a committee established by the Governing Body to examine a representation made by the National Confederation of Workers of Senegal (CNTS), under article 24 of the ILO Constitution, alleging failure to apply the Convention, in particular to black Mauritanian workers of Senegalese origin whose employment was adversely affected as a consequence of the conflict with Senegal in 1989. In this context, the Committee is monitoring whether appropriate measures have been implemented to compensate for the harm done to Mauritanian nationals who were subjected to discrimination, by reintegrating such persons into their employment and re-establishing their related rights. The Committee notes the Government's indication that no judicial or administrative action has ever been taken by these individuals since their problems were resolved, as indicated in previous reports under the Protection of Wages Convention, 1949 (No. 95). Referring to its most recent observation under Convention No. 95, the Committee recalls that despite reassurances on this matter, the Government is still not in a position to supply the slightest concrete element or documented information corroborating its statements. ***The Committee***

is therefore bound once more to ask the Government to spare no effort in providing specific details on the measures taken and the number of affected workers who have been inserted in government employment or alternatively provided with compensation, and those who received retirement pensions after the events of 1989.

The Committee is raising other points in a request addressed directly to the Government.

Republic of Moldova

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1996)***

1. *Legislative developments.* The Committee notes with interest the adoption of Act No. 5-XVI of 9 February 2006 regarding the assurance of equal opportunities for women and men. It notes that the Act prohibits direct and indirect discrimination on the basis of sex and guarantees equal opportunity for women and men in employment and occupation. The Committee also notes with interest the creation of the Commission for Gender Equality. ***It asks the Government to provide detailed information on the work and responsibilities of the Commission in relation to employment and occupation and on the practical application and enforcement of Act No. 5-XVI, including indications of the number, nature and outcome of cases under the new Act dealt with by the labour inspectorate and the courts.***

2. *Discrimination on the basis of age.* The Committee notes the communication from the Confederation of Trade Unions of the Republic of Moldova (CSRM) received on 26 July 2006 with respect to the recent amendments to the Labour Code (Act No. 8-XVI of 9 February 2006). The CSRM focuses in particular on the addition of section 82(i), which allows for the termination of an employment contract in cases where the employee has reached retirement age. It alleges that this provision contravenes section 8 of the Labour Code and Convention No. 111 in that it discriminates on the basis of age and will lead to the unjust dismissal of older workers. The Committee notes that the communication received from the CSRM was sent to the Government on 4 September 2006. ***It requests the Government to provide a reply to the issues raised by the CSRM with its next report.***

3. *Discrimination on the basis of colour.* The Committee recalls that sections 8, 47 and 128 of the Labour Code prohibit discrimination on a number of grounds, but that the criterion of colour, which is one of the prohibited grounds of discrimination listed in *Article 1(1)(a)* of the Convention, has been omitted. ***The Committee asks the Government to indicate whether it intends to extend the protection provided by this provision to include the ground of colour, and to indicate the measures by which protection from discrimination on the basis of colour is ensured in respect of employment and occupation.***

4. *Measures to promote equality of opportunity and treatment in employment and occupation.* The Committee understands that the Government adopted a national plan for promoting gender equality for the period 2006–09 and recalls the National Human Rights Action Plan (2004–08), which envisages activities to promote equality of opportunity and treatment on the basis of sex and ethnic origin. The Committee notes that the Government's report does not provide an assessment of the implementation of the concrete activities and programmes carried out under these plans. ***It asks the Government, therefore, to provide detailed information in its next report on the mechanisms in place to coordinate and monitor the implementation of these plans and on the outcomes of the action taken under these plans to promote equality in the world of work irrespective of sex or ethnicity. Please also provide a copy of the new national plan for promoting gender equality.***

The Committee is raising certain other points in a request addressed directly to the Government.

Morocco

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1979)

1. *Articles 1 and 2 of the Convention. Application in the private sector.* The Committee recalls its previous comments concerning sex-based wage discrimination in the female-dominated textile sector and informal manufacturing industries, as reported by the International Confederation of Free Trade Unions (ICFTU) in 2003 and confirmed under the pilot programme to promote decent work in the textile and clothing sectors carried out with ILO assistance. In this context, the Committee asked the Government to provide information on the activities under the pilot programme's action plan to address wage inequalities and to promote the principle of equal remuneration for men and women for work of equal value. It also asked the Government to provide information on how the relevant laws and regulations are being enforced in these sectors.

2. The Committee notes that a tripartite seminar was held in June 2006 on the promotion of fundamental rights at work, which included on the agenda gender equality in employment, remuneration and working conditions. The Committee further notes the Government's statement that labour inspectors insist on non-discrimination in respect of payment of wages and seniority increments, particularly in the textile sector and that infringements are brought before the competent courts. The Government states that under a new methodology for interventions, labour inspectors are specifically called upon to monitor the principle of equal remuneration for work of equal value, introduced by section 346 of the Labour Code, and to encourage social partners to implement the principle when determining remuneration. The

statistical information provided by the Government indicates that 642 contraventions concerning the payment of wages were addressed by labour inspectors in 2005. *The Committee asks the Government to provide further information regarding the following:*

- (a) *the type of contraventions concerning remuneration identified by labour inspectors and the manner in which they have been remedied, including indications as to whether any of these cases related specifically to section 346 of the Labour Code;*
- (b) *the new methodology for labour inspections concerning equal remuneration and information on experiences in applying this methodology in practice;*
- (c) *the measures taken to ensure that the principle of equal remuneration for work of equal value, as provided for under section 346 of the Labour Code, is respected in the determination of wages and benefits. Noting that direct or indirect discrimination with respect to wages and other benefits, particularly in the textile sector, may be due to the fact that the work experience of women is less valued while seniority may be overweighted as a criteria for determining remuneration, the Committee asks the Government to provide any examples of measures taken by enterprises or social partners to ensure compliance with section 346 of the Labour Code, such as the use of objective job evaluation methods or reviews of wage scales. Please also provide information on the manner in which seniority increments are granted;*
- (d) *whether the courts have decided any cases concerning discrimination in respect to remuneration based on sex involving sections 9 or 346 of the Labour Code, and the outcome thereof; and*
- (e) *any measures taken to address discrimination in remuneration in the informal manufacturing sector.*

The Committee is raising other points in a request directly addressed to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1963)***

Equality of opportunity and treatment of men and women

1. In its previous observation, the Committee welcomed legislative amendments concerning non-discrimination and equality, including section 9 of the Labour Code, while emphasizing that practical measures are also needed in order to remove any obstacles to the implementation of equality and reduce inequalities that exist in practice between men and women in employment and occupation. The Committee notes that, in 2006, the Government adopted a National Strategy for Equity and Equality between the Sexes through Gender Mainstreaming of Development Policies and Programmes. According to the National Strategy, the employment situation of women remains a concern. Women's economic activity rate decreased from 28 per cent in 2004 to 25 per cent in 2005, while that of men decreased from 77 per cent to 76.5 per cent. Women are disproportionately affected by unemployment and a majority of them work in the informal economy, thus lacking protection from discrimination and exploitation. The Committee notes that equal access of men and women to the labour market is an explicit objective of the National Strategy and that it sets out specific approaches and measures, including the following: integration of a gender perspective in the elaboration of employment policies and programmes and implementing decrees under the Labour Code; enforcement of non-discrimination provisions; encouragement of enterprises to mainstream a gender perspective in their activities; and increased support to women entrepreneurs. The National Strategy also emphasizes the need to combat sexist stereotypes and prejudices in order to bring about changes in mentalities and behaviour. The Committee welcomes the identification of these key issues, which must be addressed in order to move forward in the realization of gender equality at work.

2. *The Committee requests the Government to provide information on the implementation of the measures envisaged under the National Strategy to promote women's equal access to vocational training, employment and occupation (pages 18–19) and to combat gender stereotypes (pages 21–22). Please indicate how the implementation of the National Strategy is monitored and assessed. In addition, the Committee requests the Government to provide information on any measures taken to ensure the effective enforcement of legislative provisions concerning non-discrimination and equality in employment and occupation, particularly section 9 of the Labour Code, and to supply any administrative or judicial decisions concerning these provisions.*

3. *Public administration.* The Committee notes that according to the National Strategy, women's participation in employment in the public administration is increasing, but continues to be concentrated in areas such as health, youth or education, and in jobs at the lower end of the hierarchy. The statistics for 2004 provided by the Government indicate that 35.2 per cent of civil servants were women, compared with 34.3 per cent in 2002. According to the national report "Beijing + 10", a circular letter issued by the Prime Minister in January 2001 dealt with the access of women to positions of responsibility in the civil service. *The Committee requests the Government to continue to provide statistical information to allow the Committee to assess the progress made over time in achieving a balanced representation of men and women in the different job categories, and in management and decision-making positions in the public administration. In this regard, please also provide further information on the Prime Minister's circular of 2001 regarding women's employment in posts of responsibility and indicate whether any mechanism exists to ensure the systematic monitoring of the progress made in promoting women to such posts.*

4. *Textile and clothing sector.* Recalling its previous comments under Convention No. 111 and the Equal Remuneration Convention, 1951 (No. 100), concerning discrimination against women in the textile and clothing sector, the Committee notes from the Government's report that in the framework of the decent work pilot programme carried out with ILO assistance, an action plan has been elaborated to promote effective gender equality in this sector. The action plan, inter alia, recommends measures to address the lack of knowledge of legal provisions on non-discrimination and equality and to strengthen the social performance of enterprises. The Committee recalls that, as noted in the reports of the pilot programme, women make up a large majority of workers in the textile and clothing sector, and they are particularly affected by job precariousness, wage discrimination, reduced access to on-the-job-training, long working hours and poor working conditions. ***The Committee, therefore, trusts that the necessary steps to ensure the full implementation of the action plan will be taken, and requests the Government to provide information on the specific measures taken and the results achieved. Please also indicate the steps taken to seek the cooperation and collaboration of the social partners to implement the action plan.***

Equality of opportunity and treatment irrespective of ethnic origin

5. In its previous comments the Committee requested the Government to provide information on the manner in which equality of opportunity and treatment for members of minority groups is ensured in practice. The Government's report merely states that the principle of equality of opportunity and treatment is applied with respect to the entire population. The Committee reminds the Government that its concerns relate to the enjoyment of equal opportunities and equal treatment in practice. ***It therefore reiterates its request to the Government to indicate whether any measures have been taken or are envisaged to ensure that, in practice, Berber (Amazigh) members of the population suffer no discrimination and enjoy equality of opportunity in employment and work. In this regard, please indicate whether any studies or reports exist on the employment situation of this group and whether any special measures are being taken to meet their particular requirements as envisaged under Article 5(2) of the Convention.***

The Committee is raising other and related matters in a request addressed directly to the Government.

Panama

Equal Remuneration Convention, 1951 (No. 100) (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:

1. *Legislation.* In its previous comments, the Committee indicated that section 10 of the Labour Code does not adequately reflect the principle set out in the Convention because it provides that "equal wages shall be paid for equal work in the service of the same employer, performed in the same job, working day, conditions of efficiency and seniority", whereas the principle set out in the Convention is broader, since it also applies to work that is different but of "equal value" and carried out for the same or another employer. In its observation in 2003, the Committee expressed the hope that the Government would make efforts to amend section 10 of the Labour Code to bring it into harmony with the principle set out in the Convention.

2. The Committee notes the Government's indications in its report that section 10 of the Labour Code is based on article 63 of the Constitution, under the terms of which "equal wages or pay shall always be provided for equal work under identical conditions, irrespective of the persons performing it and without distinction on grounds of sex, nationality, age, race, social class or political or religious views". The Government adds that the guiding standard maintains the broad meaning of equality without distinction on grounds of gender and that section 10 referred to above does not therefore merit amendment as it guarantees equal wages.

3. The Committee considers however that the principle set out in section 10 of the Labour Code is narrower than the principle established by the Convention. The Committee points out once again that equal remuneration within the meaning of the Convention is not limited to equal work, nor to work performed under identical conditions, but is broader and has to be applied to work of equal value, even where the work is of a different nature or is performed under different conditions, or for different employers. Where legislation exists covering equal remuneration, it must not be more restrictive than the Convention, nor inconsistent with it. ***The Committee therefore once again expresses the hope that the Government will make the necessary efforts to amend section 10 of the Labour Code to give legislative expression to the principle established by the Convention of equal remuneration for men and women for work of "equal value" and it requests the Government to continue providing information on this subject.***

The Committee is raising other matters in a request addressed directly to the Government.

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1966)

The Committee notes the comments dated 7 October 2005 of the National Federation of Public Employees (FENASEP) and the Government's reply of 19 May 2006. FENASEP refers to the dismissal of two pregnant women. One involves an employee at the Legislative Assembly in respect of whom, according to the Government, steps have been taken to have her reinstated. The other, a social worker, had been employed for three years and nine months by the Ministry of Health before her dismissal. The Government states that the appointment was temporary and ended at the date foreseen and was not a dismissal on grounds of pregnancy. The Committee notes that having worked for the Ministry of Health for three years and nine months, the worker could legitimately expect her contract to be extended and that the non-renewal could be linked to her pregnancy, which would constitute discrimination under the Convention. ***Consequently,***

the Committee requests the Government to consider, in the context of its equality policy, measures needed to ensure that women on temporary contracts are not placed in a situation where they are vulnerable to discrimination because of pregnancy. Please also provide information on the legislation and measures adopted or envisaged to prevent discrimination on grounds of pregnancy. The Committee hopes that the Government will send the abovementioned information with its reply to the Committee's observation and direct request of 2005.

Paraguay

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

Discrimination on the basis of political opinion. The Committee notes with satisfaction that section 145 of the Public Service Act No. 1626 of 2000 repeals Act No. 200 of 17 July 1970, which gave rise to discriminatory practices on the basis of political opinion and which the Committee had been requesting the Government to repeal explicitly for several years.

The Committee is raising other matters in a request addressed directly to the Government.

Poland

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

1. *Articles 1 to 3 of the Convention. Discrimination on the ground of sex. Sexual harassment.* The Committee notes the communication dated 28 February 2006, jointly submitted by the Independent Self-Governing Trade Union (Solidarnosc) and the International Food, Agricultural, Hotel, Catering, Tobacco and Allied Workers Associations (IUF). The communication was forwarded to the Government on 15 March 2006.

2. The Committee notes that Solidarnosc and the IUF refer to a situation involving allegations of sexual harassment in an undertaking employing some 100 women on night shift and three male supervisors. According to the communication, eight women were either dismissed on disciplinary grounds or being pressured to resign due to the fact that they lodged sexual harassment complaints or supported such complaints. The public prosecutor initiated criminal proceedings against the accused supervisor who, while suspended from his duties, continues to receive his salary as well as legal assistance from the employer. By contrast, the women lost their jobs which caused moral and financial suffering, and the compensation claims raised by them in the labour court are still pending. The communication states that these facts constitute a violation of the Convention, since although the legislation has been brought in line with international standards, public labour institutions have de facto provided insufficient protection against sexual harassment. It is stated that the Government failed to take appropriate measures to address sexual harassment as outlined in the Committee's 2002 general observation on this matter.

3. The Committee notes that Solidarnosc and the IUF suggest a number of measures that could be taken to draw up an effective national policy on sexual harassment and offer their collaboration in this respect. The unions propose that the administrative and judicial mechanism and procedures applicable to sexual harassment cases be simplified and expedited. Special measures should be introduced for the immediate protection of victims from further harm. Further, the unions propose a tripartite initiative to draw up a national policy to prevent and address sexual harassment in private and public undertakings. Labour inspection should play a key role in monitoring the implementation of a future national policy on sexual harassment.

4. The Committee notes that the Government has not provided its views on these matters, though its report contains some general information concerning sexual harassment in reply to the Committee's previous comments. The Committee notes that out of the 55 complaints concerning equal treatment received by the National Labour Inspectorate, only two related to sexual harassment. The Government states that while the inspectors can request an inspected enterprise to eliminate confirmed irregularities, judicial proceedings were the most appropriate procedure in case of discrimination. Only the court can determine whether discrimination occurred and award compensation accordingly. However, labour inspectors can provide counselling services and raise awareness among employees of their rights and the possibility to bring court cases.

5. The Committee notes that sexual harassment is a particularly severe form of discrimination based on sex that has serious implications for the victims and the workplace as a whole. The Committee recalls that, while the Convention is flexible as regards the choice of the measures taken to pursue the national equality policy envisaged under *Article 2* of the Convention, these measures should be appropriate for achieving positive results towards the elimination of discrimination in law and in practice. *While the Committee notes that the Government has taken certain measures to prohibit sexual harassment, it requests the Government to seek the cooperation of employers' and workers' organizations and other appropriate bodies to promote the acceptance and observance of the national equality policy. It requests the Government to continue to provide information on the practical application and enforcement of legal provisions concerning sexual harassment, including the outcome of any relevant administrative or judicial proceedings, as well as*

information on the specific activities carried out by labour inspectors to raise awareness regarding sexual harassment. Finally, the Committee hopes that the Government and the social partners will consider ways and means to ensure that victims of sexual harassment have access to appropriate remedies and protection, taking into account the proposals made by Solidarnosc and the IUF, and it requests the Government to indicate the steps taken in this regard.

The Committee is raising other matters in a request addressed directly to the Government.

Qatar

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1976)

1. *Article 1 of the Convention. Legislation.* The Committee noted in its previous observation that in the process of adopting a new Constitution and a new Labour Law, the opportunity had not been taken to give effect fully to the Convention. In particular, the prohibited grounds of discrimination had not been modified in the new Constitution, so that discrimination on the grounds of political opinion, national extraction and social origin were still not included. The Committee notes the Government's indication that the issues under Convention No. 111 are resolved through the Labour Law, 2004, since, according to the Government, it applies to all workers without discrimination. The Committee again draws the Government's attention to the fact that the Labour Law has only limited provisions dealing with discrimination, which are considerably narrower than the principle set out in the Convention. The Labour Law provides that men and women shall be paid the same wage for the same work, that women shall have the same opportunities for training and promotion (section 93), and that an employer may not terminate a woman's contract due to her marriage or taking maternity leave (section 98). In addition, the Committee recalls that the Labour Law excludes a number of groups of workers, which may be particularly vulnerable to discrimination, such as casual workers and domestic workers (section 3), the latter group being comprised primarily of women. The Committee regrets that in adopting new legislation, the opportunity was not taken to include all the grounds enumerated in *Article 1(1)(a)* of the Convention, and that non-discrimination on these grounds was not ensured for all workers with respect to access to vocational training and guidance, access to employment and particular occupations, including recruitment, as well as with respect to all terms and conditions of employment. ***The Committee again urges the Government to consider amending the labour legislation so that it more fully reflects the principle of equal opportunity and treatment as set out in Article 1 of the Convention, including a prohibition of discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, in all aspects of employment and occupation.***

2. *Article 2. National equality policy.* The Committee notes its previous comments, regarding the importance of formulating and applying a policy of non-discrimination and equality, with respect to all the grounds set out in the Convention, including measures in law and practice that provide effective protection from discrimination and promote equality in employment and occupation. The Committee notes the information provided by the Government regarding the establishment of the National Committee for Human Rights, which is mandated to promote international human rights instruments to which Qatar is a party, examine complaints, and undertake awareness raising and sensitization in this area. The Committee also notes the Government's reference to the work of the High Council for Family Affairs, which is to prepare a strategy for women's progress in collaboration with UNIFEM, with the aim of giving women a more active and influential role in society and its development, achieve wider participation of women in higher echelons of authority and decision-making positions, endeavour to change the trends and societal values which hinder the acceptance of women's participation in development projects, and reaffirm Arab and Muslim values and principles which seek complementarity between men and women in society. ***The Committee requests the Government to provide information on the specific activities undertaken by the National Committee for Human Rights to promote equality of opportunity and treatment on all the grounds set out in the Convention, namely, race, colour, sex, religion, political opinion, national extraction or social origin, including awareness raising and sensitization, and details of any complaints received regarding discrimination, and the outcome thereof. The Committee also looks forward to receiving a copy of the strategy paper prepared by the High Council of Family Affairs, as well as information on its follow-up. Please also continue to provide information regarding the specific activities of the High Council of Family Affairs relevant to the promotion of the Convention.***

3. *Equality between men and women.* The Committee notes the information provided by the Government regarding the number of women enrolled in university and various training programmes, including those offered by Qatar Petroleum and Qatar Communications Company. The Committee notes that in the university courses, in some areas, the number of women decreased between 2004 and 2005, including in the faculty of political science and management, and law and Sharia, while in other areas, such as computer and industrial engineering, there is a slight increase in the number of women. In the training institutes, there has been an increase in women in the area of administration and nursing, and a decrease in accounting and information technology. In the Qatar Communications Company, the Committee notes that during the same period, there has been a decrease in female trainees in all areas. ***The Committee requests the Government to continue providing comparable statistical information on the distribution of men and women among the various educational and training institutions. It also requests information regarding how the education and training received by women translate into employment opportunities once they complete the courses. The Committee would also like to***

receive information on any measures taken to promote training and educational opportunities for women in areas that have traditionally been dominated by men.

4. The Committee notes with concern the indications in the Government's report that jobs are advertised and filled based on stereotyped assumptions of what is appropriate for men and women. The Government provides examples of newspaper advertisements specifying the sex of those who may apply, such as a male accountant or a female secretary. The Committee also notes with concern the Government's explanation to the effect that such advertisements and hiring practices are not discriminatory, but are based on the employer's evaluation of the most suitable applicant for a specific post, based on expertise and gender. The Committee draws the Government's attention to the fact that such advertising and hiring practices constitute direct discrimination based on sex, and are incompatible with the principle of non-discrimination in employment and occupation. ***The Committee, therefore, urges the Government to take measures to promote equal access of women and men to all types of employment and occupation, and to prohibit discriminatory advertising and hiring practices.***

The Committee is raising other and related matters in a request addressed directly to the Government.

Saudi Arabia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1978)

The Committee notes the Government's report and the reply to the comments of the International Trade Union Confederation (ICFTU). The Committee also notes the discussion that took place in the Conference Committee on the Application of Standards in June 2005, the resulting conclusions of the Conference Committee, and the report of the High-level mission that took place in September 2006.

Legislative developments

1. The Committee notes the adoption of the new Labour Code, which came into force on 23 April 2006. For a number of years, the Committee has expressed concern regarding section 160 of the 1969 Labour and Workers' Law, providing that "in no case may men and women co-mingle in the place of work or in the accessory facilities or other appurtenances thereto". The Committee notes with satisfaction that this provision has been repealed with the adoption of the new Labour Code.

2. The Committee notes from the Government's report under the Equal Remuneration Convention, 1951 (No. 100), that it considers that the Labour Code is based on the principle of equality. With respect to the scope of application of the Labour Code, the Committee notes that domestic workers and agricultural workers are excluded (section 7), and part-time workers are also excluded, except with respect to the provisions relating to safety, occupational health and work injuries (section 5). In addition, "incidental, seasonal and temporary workers" are covered by the Code, but only with respect to certain defined areas, including working hours, overtime, and occupational health (section 6). With respect to domestic workers, the Labour Code provides that the Minister is to draft regulations to govern their relations with the employers and specify the rights and duties of each party (section 7). The Committee notes the Government's indication that the regulation on domestic workers and workers of a similar category has been drafted by the Ministry of Labour, and is awaiting final approval. ***The Committee requests the Government to clarify how the principle of equality is reflected in the Labour Code, as set out in Article 1 of the Convention. Noting that the groups fully or partially excluded from the scope of the Labour Code are those that are often particularly vulnerable, the Committee requests the Government to indicate how these workers are to be effectively protected against discrimination. The Committee also requests the Government to forward a copy of the regulation on domestic workers as soon as it has been adopted.***

National equality policy

3. The Committee has for many years been commenting on the need to declare and pursue a national equality policy, which was echoed in the conclusions of the Conference Committee. The Committee notes the report of the High-level mission indicating that the authorities acknowledged that there was no national equality policy, and requested ILO assistance with respect to developing such a policy. The mission provided terms of reference to enable the Government to adopt and pursue, with ILO technical assistance, a national policy for the promotion of equality in employment and occupation covering all workers, with a view to eliminating discrimination on the grounds listed in the Convention. The terms of reference focus on the establishment and mandate of a multi-stakeholder task force. The Committee concurs with the conclusions of the mission that, to be effective, a national equality policy must be multi-faceted, including the following: a clearly stated policy; discriminatory laws and administrative practices repealed; stereotyped behaviours and prejudicial attitudes addressed; and monitoring put in place. It should cover all the grounds set out in the Convention – sex, colour, race, religion, national extraction, social origin and political opinion – address direct and indirect discrimination, apply to all aspects of employment, and ensure effective means of redress. The Committee welcomes the Government's request for ILO technical assistance to adopt and pursue a national equality policy, and notes that the Government in its report states that the necessary steps will be taken to formulate a national equality policy. ***The Committee looks forward to receiving information in the Government's next report regarding the composition and meetings of the task force, and the progress it has made, in particular in the preparation of a national survey on the***

situation in Saudi Arabia with regard to discrimination on all the grounds set out in the Convention, and the establishment of an action plan.

Equal opportunity and treatment for men and women

4. *Education and vocational training.* The Committee notes the information provided by the Government in its report, as well as the findings of the High-level mission, indicating that a wider range of training and educational opportunities are being opened to women. The Committee notes in particular that the General Organization for Technical Education and Vocational Training has recently included a number of new specializations for women, including computer science and accounting, though the majority of the courses offered focus on traditional “female” skills, such as sewing, hairdressing, beauty consulting, etc. While there are at present four technical colleges for women, over the next seven years, 37 more institutes and two colleges to train trainers are foreseen. The Committee also notes that there are now 102 public women’s colleges with 300,000 students, as well as some newly opened private women’s colleges. At the university level, women are entering higher education in increasing numbers, and according to the Government’s report, make up 58 per cent of the student population. The Committee acknowledges the important investment that has been made in providing educational and training opportunities to women. However, it also notes the findings of the High-level mission that only 10 per cent of women obtain jobs after graduation. The mission concluded that women continue to be directed to subjects that are considered more suitable to their role in the family and in society, and that many women graduating from universities do not have the competencies needed for the jobs in the labour market. The mission recommended that research and analysis of the labour market needs be undertaken. ***The Committee requests the Government to provide statistical information on the distribution of men and women among the various educational and training institutions. It also requests information regarding how the education and training received by women translates into employment opportunities once they complete the courses. The Committee would also like to receive information on any measures taken to promote training and educational opportunities for women in areas that have traditionally been dominated by men, including through the Human Resources Development Fund. Please also keep the Committee informed of the results of any research and analysis of labour market needs, and how such results are being used to target training and education for women to improve their employment opportunities.***

5. *Occupational segregation.* The Committee welcomes the conclusion of the High-level mission that the Government demonstrated considerable political will to improve the situation of women in employment and occupation. The mission also concluded that although there is now no legal prohibition to women and men working together, there was little awareness of this fact. The Committee notes further that although the prohibition of women and men working together has been repealed, the Labour Code contains a provision stating that “women shall work in all fields suitable to their nature” and prohibiting employing women in hazardous jobs or industries (section 149). The Committee notes in this regard the findings of the High-level mission that section 149 is generally considered a protective measure, and results in occupational segregation, with jobs considered suitable for women being those in traditional areas, such as the education and health sector, and in administration and finance. Statistics provided by the Government in its report on Convention No. 100 confirm that women continue to be concentrated in particular fields, such as social and community services. The Committee notes the conclusions of the High-level mission that while women are beginning to move into non-traditional areas, progress is slow, and hindered by stereotyped views of women’s role in society. There is still an absence of women in high-level government and political positions. ***The Committee requests the Government to indicate measures taken or envisaged to ensure that workers and employers are made aware of the fact that there is no longer a legal prohibition to women and men working together. The Committee considers that a proactive policy to promote gender equality at work and in society is required, which does not reinforce stereotypical assumptions regarding women’s aspirations, capabilities and social roles, and requests the Government to provide information regarding measures taken to promote women’s access to a wider range of occupations at all levels, including sectors in which they are currently under-represented. The Committee also requests the Government to review and consider amending section 149 of the Labour Code with a view to ensuring that any protective measures are limited to protecting the reproductive capacity of women and are not aimed at protecting women because of their sex or gender, based on stereotyped assumptions. Please also keep the Committee informed regarding the implementation in practice of Decree No. 120 of 2004. The Committee also asks the Government to respond to its previous request for clarification regarding the Order of 21 July 2003 approving women’s participation in international conferences suitable to them.***

6. *Sexual harassment.* The Committee notes the Government’s response to its previous comments regarding the absence of legislation addressing sexual harassment, and requesting information on measures taken to address sexual harassment of domestic workers. The Government indicates that specific legislation on this matter is not being contemplated, stating that *Shari’a* law prohibits sexual harassment, and that sexual harassment, rape and similar offences are punished under criminal law, though no cases have been lodged. With specific reference to domestic workers, the Government states that the draft regulation on domestic workers prohibits harm to the dignity of the domestic worker. The Committee notes that the definition of sexual harassment contains two key elements, namely, quid pro quo harassment and hostile work environment, and in this respect again draws the Government’s attention to the general observation of 2002 on this matter. ***The Committee considers that restricting the prohibition of sexual harassment to general penal law provisions is unlikely to address adequately both these aspects of sexual harassment in the workplace, and again requests the Government to consider including a provision in the Labour Code that defines and explicitly prohibits***

sexual harassment. With respect to domestic workers, the Committee hopes that the regulation on domestic workers, once it is adopted, will address specifically the issue of sexual harassment, as these workers are particularly vulnerable to such harassment.

Migrant workers

7. The Committee notes the observations of the ICFTU regarding discrimination against migrant workers on the basis of race, religion and sex, underlining in particular the potential and actual abuse of female domestic workers. The Conference Committee, while noting the efforts made by the Government to promote and protect the rights of migrant workers, concluded that considerable problems appear to exist in the application of the Convention in law and practice with respect to migrant workers. The Committee notes that the Government reiterates its previous reply to these concerns, to the effect that given the large number of migrant workers, cases of abuse represent a minimal proportion, and that the ICFTU does not provide sufficient details to support the allegations. The Committee recalls, however, that the magnitude of the problem raised by the ICFTU cannot be considered insignificant, and that considerable details are provided in the ICFTU's communications. The Committee notes that the Government's report indicates an example of the employer retaining considerable control over a migrant worker, since during the probationary period, an employer can choose to repatriate the worker if he or she is not considered suitable, place the person on a second probationary period, or decrease the worker's wages. Although the latter two options can only be done with the agreement of the worker, the worker is likely to be in the weaker position, therefore, he or she may in essence be forced to accept the lower conditions in order to avoid repatriation. The Committee also notes the Government's indication that there have been no complaints filed by migrant workers.

8. The Committee notes the findings of the High-level mission confirming the continued use of the foreign sponsorship system, and the difficulty for migrant workers to change employers. The mission also concluded that there seemed to be a general lack of information and awareness regarding the situation of migrant workers. The Committee notes that a pamphlet for foreign workers has been prepared, which was disseminated to relevant embassies, and is now being revised to reflect the rights and obligations pursuant to the new Labour Code, and that a new Department of Expatriate Labour has been established within the Ministry of Labour. As noted above, a regulation on domestic workers and workers of a similar category has been drafted by the Ministry of Labour, and is awaiting final approval. ***The Committee hopes that the regulation on domestic workers, which is awaiting adoption, will include specific provisions prohibiting discrimination on all the grounds enumerated in the Convention, and address the issues of exploitation of these workers. It also urges the Government to implement the recommendations of the High-level mission: to launch an investigation into the foreign sponsorship system to examine the allegations of abuse raised before the Committee of Experts; to follow up in a concerted manner issues relating to discrimination of migrant workers, including examining the occupations in which migrant workers are employed, their conditions of employment, and in particular the situation of female domestic workers; and to make addressing discrimination against migrant workers an important component of the national equality policy.***

Discrimination on the ground of religion

9. The Committee recalls its previous observation requesting information on whether job advertisements still include references to religion, and measures taken to address religious discrimination. The Committee also notes that the ICFTU provides examples of serious cases of religious discrimination. The Committee notes the information provided by the Government regarding the provisions of the Publications and Publishing Act, 2000 and a government memorandum relating to advertisements. The Committee also notes the findings of the High-level mission that with respect to discrimination on grounds other than sex, particularly migrant workers on the basis of race, religion and national extraction, there was little awareness or acknowledgement that such discrimination existed. ***Noting that it appears that job advertisements making reference to religion are not permitted, the Committee requests the Government to provide information regarding the measures taken to ensure that such a requirement is not imposed in practice. Noting that religious discrimination in employment and occupation appears to be occurring in practice, the Committee encourages the Government to address this matter in the national equality policy, and take concrete measures to address such discrimination. Please keep the Committee informed of any progress in this regard, including any studies commissioned, awareness raising undertaken, and enforcement measures.***

Dispute resolution and human rights mechanisms

10. The Committee has stressed in previous comments the importance of effective mechanisms to address discrimination and provide effective remedies and enforcement. The Conference Committee emphasized that the national equality policy needs to include effective mechanisms to address existing discrimination, including remedies for men and women migrant workers. The Committee notes that the High-level mission concluded that "there is a lack of effective inspection, complaints mechanisms and enforcement for issues of discrimination". The weaknesses identified were linked to physical access, since the dispute resolution bodies are based only in the capital, as well as to a lack of awareness among judges and members of the commissions of issues related to discrimination. There are also no women on the commissions or in the courts. The mission also concluded that the Human Rights Commission could provide an important mechanism for addressing complaints of discrimination in a timely and effective manner, and promoting equality without reinforcing stereotypes, but as a new institution, it was still at the stage of defining its role and means of action. ***The***

Committee encourages the Government to take measures to ensure that those involved in dispute resolution and enforcement, including labour inspectors, labour dispute commissioners, judges and members of the Human Rights Commission, receive appropriate training regarding non-discrimination and equality issues, and to provide information regarding any progress in this regard. The Committee also requests information on any complaints brought before labour inspectors, labour dispute commissioners, the Human Rights Commission or the courts regarding discrimination in employment and occupation, and the outcome thereof. Please also provide information regarding the awareness-raising activities of the Human Rights Commission with respect to equality and non-discrimination.

Senegal

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1967)***

1. The Committee notes the Government's report which contains information in reply to the communication received from the International Confederation of Free Trade Unions (ICFTU) dated 23 September 2003, as well as information concerning certain matters raised by the Committee in its previous comments. The Committee also notes the communication dated 16 October 2006 received from the National Union of Autonomous Trade Unions of Senegal (UNSAS) and the Government's response thereto.

2. The Committee recalls that the ICFTU expressed concerns over the concentration of women in low-quality jobs both in the public and private sectors. According to the ICFTU, women have less access to better paid occupations and the majority of them are employed in rural and informal economy work. Female illiteracy is very high and school enrolment of girls is low. UNSAS states that discrimination against women exists in practice and confirms that women are concentrated in low-quality jobs, often without access to social protection.

3. The Government states that no legal provision discriminates against women in respect of employment and occupation and that the process of harmonizing the legislation with the Convention on the Elimination of All Forms of Discrimination against Women was still ongoing. The Government contests the allegations concerning discrimination in practice, stating that women are more likely to be attracted by some occupations than others due to their "social and family obligations". The statistical information provided by the Government indicates that 22.6 per cent of the civil servants are women, with a very high concentration in occupations relating to health and social affairs. The proportion of women in category A of the civil service is as low as 8.7 per cent. As regards access to education and training, the report indicates that some progress has been made concerning the enrolment of girls and addressing female illiteracy. According to the data provided, the overall enrolment rate for girls is 80.6 per cent compared to 82.5 for boys. However, the Committee notes that girls participate in education beyond the primary level at a much lower rate than boys.

4. The Committee stresses the need for the Government to continue to review the legislation, particularly the Family Code, and to repeal provisions that contradict the principle of gender equality, as such provisions have an adverse impact on the enjoyment by women of their human right to equality of opportunity and treatment in employment and occupation. However, the Committee also notes that a national policy, as envisaged in *Article 2 of the Convention*, not only consists of ensuring non-discrimination and equality before the law, but must also include an equal opportunity policy offering everyone, without distinction based on sex or other grounds, equal means and opportunities for training and employment. Taking into consideration the information received, the Committee considers that further measures are required to address the existing gender imbalances in respect of education, employment and occupation, including through a proactive policy to promote gender equality at work and in society at large that avoids stereotypical assumptions regarding women's aspirations, capabilities and social roles. ***The Committee requests the Government to provide, in its next report, detailed information on the following:***

- (a) the progress made in harmonizing the legislation with the principle of gender equality;***
- (b) the measures taken to implement an equal opportunities policy that enables women to access education and work on an equal footing with men, including access to traditionally male-dominated jobs, self-employment, and decision-making and management positions;***
- (c) the measures taken to promote awareness and training on gender equality issues as may be necessary to secure acceptance and observance of the national equality policy, including measures taken in cooperation with employers' and workers' organizations and other appropriate bodies; and***
- (d) the results achieved regarding these matters, including statistical information on enrolment in education and training at the various levels, disaggregated by sex, and the participation of men and women in employment and work in the private and public sectors (according to job categories or occupations), as well as the informal economy.***

Serbia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 2000)***

1. The Committee recalls the communication submitted jointly by the World Confederation of Labour (WCL) and the Confederation of Autonomous Trade Unions of Serbia (CATUS) dated 6 January 2004. The communication referred to section 13(1) of the 2001 Labour Law of the Republic of Serbia establishing a general health requirement as a condition for establishing an employment relationship; section 14(1) which required every employee to inform the employer of his or her health condition and other circumstances that significantly influence his or her performance of duties prior to entering into an employment contract; and section 16(3) which required the employee, when establishing an employment relation, to submit to the employer documents proving that she or he meets the conditions for work. The WCL and CATUS alleged that these provisions were discriminatory with regard to access to employment.

2. The Committee notes the Government's reply to the observations made by WCL and CATUS indicating that, according to the 2005 Labour Law (*Official Gazette* No. 24/05 and 61/05 of the Republic of Serbia) job applicants have no obligation to inform employers about their health status. The Committee also notes that the 2005 Labour Law no longer contains the provisions of former sections 13(1) and 14(1). The provisions of the former section 16(3) have been amended and included in the new section 26 of the 2005 Labour Law. Section 26(1) provides that a candidate for employment shall, when the labour relation is established, supply the employer with documents and other evidence that the requirements for the job in question, as set in the Organizational Structure and Human Resource Document, are fulfilled. section 26(2) states that the employer shall not require the candidate to supply evidence and documents that are not directly relevant for the performance of the job. In addition, the Committee notes that section 18 of the new Labour Law prohibits direct and indirect discrimination on the basis of health status. The Committee considers that the new Labour Law addresses the concerns expressed by the WCL and CATUS.

The Committee is addressing a request directly to the Government on other matters.

Sierra Leone

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1966)***

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

1. *Articles 2 and 3 of the Convention. Lack of national policy.* The Committee regrets that the Government does not provide any new information in respect to the Convention's application. Since Sierra Leone has ratified the Convention, the Government has consistently reported that no legislative or administrative regulation or other measures existed to give effect to the provisions of the Convention and the Government has failed to provide information on any measures taken in this regard. In its latest report the Government repeats the general statement that it had a broad-based policy which ensured jobs for all who apply and are willing to work, regardless of sex, religion, ethnicity or political opinion. The Committee is therefore bound to recall that under the Convention, Sierra Leone has the obligation to declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating discrimination regarding vocational training, access to employment and particular occupations, as well as terms and conditions of employment.

2. In connection with the above, the Committee recalls that articles 7 to 9 of the 1991 Constitution establish economic, social and educational objectives for the State that potentially promote the application of the Convention. Article 15 guarantees the right to equal protection of the law irrespective of race, tribe, place of origin, political opinion, colour, creed or sex, and article 27 of the Constitution provides constitutional protection from discrimination. The Committee considers that these provisions may be an important element of a national equality policy in line with the Convention, but recalls that provisions affirming the principles of equality and non-discrimination in itself cannot constitute such a policy. As stated in the Committee's 1988 General Survey on the Convention, the national policy on equality of opportunity and treatment should be clearly stated and should be applied in practice, presupposing state implementation measures in line with the principles set out in *Articles 2 and 3* of the Convention and *Paragraph 2* of the accompanying Recommendation No. 111.

3. *While being aware of the many challenges the Government is facing in the process of consolidating peace, the Committee encourages the Government to give serious consideration to the application of the Convention in law and practice as an integral part of its efforts to promote peace and social and economic stability. The Government is requested to provide information on measures taken or envisaged to promote and ensure equal access to technical and vocational training, public and private employment, as well as equal terms and conditions of employment, including through educational programmes and cooperation with employers' and workers' organizations. The Committee also reiterates its previous requests to the Government to provide information in particular on the measures taken to ensure equality in employment and occupation between women and men and among members of the different ethnic groups.*

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

Slovenia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)

1. *Article 1 of the Convention. Legislative developments.* The Committee notes with interest the legislative developments set out in the Government's report, addressing discrimination on the ground of disability, and harassment in the civil service. With respect to the civil service, the Committee notes that the amended Civil Service Act (No. 32/2006) now contains a provision prohibiting undesired physical, verbal or non-verbal treatment or behaviour of a civil servant based on any personal circumstance, creating an intimidating, hostile, degrading, humiliating or offensive working environment for a person and offending a person's dignity. With respect to discrimination on the ground of disability, the Committee notes the adoption of the Vocational Rehabilitation and Employment of Disabled Persons Act (No. 100/2004), which, inter alia, prohibits direct and indirect discrimination in the employment of disabled persons, during the employment relationship and with respect to the termination of employment. The Act Amending the Vocational Rehabilitation and Employment of Disabled Persons Act (No. 72/2005) provides that employers must consider the ILO code of practice on managing disability in the workplace so as to ensure equal opportunities of disabled persons in employment. In addition, the Decree Establishing Employment Quota for Disabled Persons (No. 111/2005), requires every employer with at least 20 workers to employ a certain proportion of disabled persons. ***The Committee welcomes these developments, and requests the Government to provide information on the practical application of the provisions concerning non-discrimination and equality of opportunity and treatment in the amended Civil Service Act, the Vocational Rehabilitation and Employment of Disabled Persons Act, the Act Amending the Vocational Rehabilitation and Employment of Disabled Persons Act, and the Decree Establishing Employment Quota for Disabled Persons, including any complaints received and the outcome of such complaints.***

2. *Article 2. Equality between men and women.* The Committee notes with interest that the Resolution on the National Programme for Equal Opportunities for Women and Men, 2005–13, was adopted by the National Assembly in October 2005, pursuant to the Act on Equal Opportunities for Men and Women, with the aim of improving the position of women. The concrete tasks and activities are to be defined in biennial periodic plans, the first of which was adopted in April 2006. The Committee notes with interest the Periodical Plan for the Implementation of the National Programme (2006–07), which sets out time-bound goals, specific action and activities, expected results, implementation methods and the bodies responsible for each activity. The Committee notes that the first strategic goal, "equal opportunities for women and men in employment" takes a multifaceted approach, including reinforcement of inspection with regard to the implementation of the Employment Act in the area of providing equal opportunities for women and men; analysing discrimination cases; raising awareness of the cases of discrimination and the mechanisms for prevention, and the position of women and men in the labour market; assistance in employing long-term unemployed women; implementation of and support for special programmes supporting women's self-employment and entrepreneurship; direct long-term investment loans with subsidized interest rates for new companies with female owners; and monitoring accessibility to education areas where girls or boys are in the minority. Furthermore, the Committee notes that the second strategic goal is also relevant to the Convention, as it is aimed at addressing and preventing sexual and other harassment at work, again setting out a range of activities. ***The Committee requests the Government to provide information regarding the progress of implementation of the Periodical Plan for the Implementation of the National Programme (2006–07) and its impact in improving equality between women and men in employment and occupation and reducing discrimination, including with respect to sexual harassment.***

3. *Equality of opportunity and treatment of the Roma.* The Committee notes the Government's indication that a concerted effort continues to be made to promote equality of opportunity and treatment of the Roma. The Government refers to the fact that, within the framework of the Operational Programme for Human Resources Development 2007–13, which was to be adopted in September 2006, special programmes for the elimination of discrimination in the labour market, in employment and in education and training would be carried out, with one of the target groups being the Roma. In addition, the draft of the Roma Community Act is under discussion, which would determine the responsibility of state authorities and local community authorities in implementing special rights of the Roma community, regulate the organization of the Roma community at the national and local levels, including establishing municipal Roma communities and umbrella organizations, and provide for the financing of special rights of the Roma. The Committee welcomes the information provided regarding the number of Roma involved in the activities under the Active Employment Policy, and regarding the development partnerships under the European Community EQUAL programme, including the Roma Employment Centre and the Roma Education Information Centre. ***The Committee requests the Government to specify whether the Operational Programme for Human Resources Development 2007–13, and the Roma Community Act have been adopted, and what follow-up has been undertaken in the context thereof. It also requests the Government to keep it informed regarding the other initiatives taken or envisaged to promote equality of opportunity and treatment of the Roma, and any concrete results achieved in improving the situation of the Roma in education and employment.***

The Committee is raising other points in a request addressed directly to the Government.

Spain

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

1. *Legislative and administrative measures and agreements.* The Committee notes with interest that during the period covered by the report, legislation, agreements and other measures have been adopted which contribute to the application of the principle laid down in the Convention. These include: (1) Royal Decree No. 1600/2004 of 2 July 2004, developing the basic organic structure of the Ministry of Labour and Social Affairs and establishing within the Ministry the General Secretariat for Equality Policies to which the autonomous Institute for Women is attached; (2) the Declaration for Social Dialogue, concluded on 8 July 2004 by the Government and the social partners, which establishes that “the Government and the social partners, through the means available to them, shall seek concerted solutions to promote the employment integration of women and improve their conditions of work”; (3) the inter-federal agreement on collective bargaining, 2005 (ANC 2005), concluded on 4 March 2005 and extended on 26 January 2005, which promotes the inclusion in collective bargaining of practical action to eliminate direct and indirect discrimination; (4) the agreement of the Council of Ministers to adopt measures to promote equality between women and men (Order No. PRE/525/2005 of 7 March), adopting a series of measures to advance the various forms of action which contribute on a daily basis to reducing inequality, such as, for example, the provision that 60 per cent of the actions covered by the National Plan of Action for Employment shall target women and the adoption of measures in the public and private sectors to promote women’s employment; and (5) the Plan for Gender Equality in the General State Administration of 4 March 2005, containing affirmative action measures, and the National Reform Programme of 2005 which, in the section on “market and social dialogue”, envisages the formulation of a Bill on equality between men and women. The report also refers to the preliminary draft of the Organic Act on equality between men and women, which was sent by the Council of Ministers on 3 March 2006 to the preliminary advisory bodies prior to being forwarded to Parliament, and which contains measures promoting the application of the Convention.

2. *Information on the application of the Convention in practice and on equality between men and women.* The Committee, while noting with interest the measures referred to above, observes that the report contains little information on the application of the Convention in practice. ***The Committee once again hopes that the next report will contain information on the practical results obtained through these measures. It would particularly appreciate receiving statistics showing developments in:***

- (a) *women’s activity rates (activity rate, unemployment rate, percentage of women among the long-term unemployed);*
- (b) *the proportion of women among workers in precarious employment and in part-time work; and*
- (c) *the distribution of women by vocational qualifications, sector of employment, level of post and remuneration.*

The Committee is raising other points in a request addressed directly to the Government.

Sri Lanka

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

1. *Article 2. Wage differentials in the tobacco and cinnamon trade.* Over the past ten years, the Committee has commented on the wage differentials between men and women in the tobacco trade and on different time/piece-rates for men and women in the cinnamon trade. The Committee notes the statistics provided by the Government on wages in Ceylon Tobacco Co. Ltd, a large-scale tobacco manufacturing company, indicating the same wage rate for both male and female casual and seasonal workers. With respect to the cinnamon trade, the Committee notes the Government’s statement that the minimum wage system is currently not applied in this sector. The Government further reaffirms that the tripartite wages boards, which set minimum wages for the tobacco and cinnamon trade, remain inoperative. In this context, the Committee recalls its previous comments under the Minimum Wage Fixing Convention, 1970 (No. 131), and the Plantations Convention, 1958 (No. 110), in which it noted that the Government was exploring the possibility of having unified minimum wage rates for each sector: plantations, manufacturing, agriculture and services. The Committee also noted the comments by the Lanka Jathika Estate Workers’ Union that the collective agreements in force in the plantations sector covered only workers in the state-owned plantations managed by private companies, and that a minimum wage for the entire country was recommended.

2. While welcoming the information on wage rates in Ceylon Tobacco Co. Ltd, the Committee must point out that the statistics provided do not enable it to assess whether wage differentials have been eliminated for the tobacco sector as a whole. From the information provided, it also remains unclear to what extent the principle of equal remuneration for men and women for work of equal value is applied in the cinnamon trade. The Committee recalls the importance of establishing minimum wages as a significant means of promoting the application of the Convention’s principle of equal remuneration for men and women for work of equal value, and the significant role the wages boards can play in this regard. The Committee notes that according to the Government, the Labour Standards Division of the Department of

Labour is conducting a survey in order to reduce the number of wage boards and simplify the procedure for deciding wages and conditions of employment. *The Committee asks the Government:*

- (a) *to continue to work towards the compilation and analysis of statistics on current wage rates for men and women in the different sectors of the economy, and in particular the tobacco and the cinnamon trade as a whole, to enable it to gain more detailed knowledge of the nature and scope of the remaining wage inequalities and the progress made with respect to their elimination;*
- (b) *to explain how it promotes and ensures the application of the principle of equal remuneration in the negotiation and implementation of collective agreements setting wages above the minimum wage, and to supply copies of any existing agreements covering the plantation sector along with statistics on the number of workers, disaggregated by sex, covered by these collective agreements;*
- (c) *to indicate the progress made in setting minimum wages for all sectors, including the plantations sector, or establishing a national minimum wage, in cooperation with the social partners; and*
- (d) *to provide information on the progress made towards reducing the number of wage boards along with specific information on the proposed simplification of the procedures for determining wages.*

The Committee is raising other points in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1998)***

The Committee notes the communication by the International Confederation of Free Trade Unions (ICFTU) of 20 February 2004, which was sent to the Government on 31 March 2004 for its comments. The ICFTU raised issues relating to the lack of legislative protection against discrimination in employment and occupation, women's access to employment and occupation, sexual harassment in the plantation sector and poor conditions of work in the export processing zones (EPZs).

1. *Legislative protection against discrimination in employment and occupation.* In its previous comments, the Committee had noted the absence of a general provision in the national legislation protecting against discrimination in employment and occupation in the private sector. The Committee notes that, according to the ICFTU, the existing legal framework does not provide sufficient protection against workplace discrimination, and needs to be strengthened, particularly in the private sector. In this regard, the Committee notes from the Government's report that the National Workers Charter of 1995, which inter alia provided for the adoption of specific legislation to ensure equality of opportunity and treatment for all women in relation to employment and occupation, has been withdrawn. The Government indicates, however, that the National Committee on Women has participated in the preparation of a Women's Rights Bill, which is currently awaiting approval, and has commissioned research to identify laws which are detrimental to women and need revision. *The Committee requests the Government:*

- (a) *to indicate the steps taken or envisaged to incorporate in the national legislation a prohibition against direct and indirect discrimination in employment and occupation in the private sector on the basis of sex as well as the other grounds set out in Article 1(1)(a) of the Convention, and to provide a copy of the Women's Rights Bill once it has been adopted; and*
- (b) *to provide information on the results of the legislative research, particularly with respect to the laws identified as being detrimental to women in the area of employment and occupation, and the efforts taken or envisaged to bring them into conformity with the Convention.*

2. *Equality of opportunity and treatment between men and women.* With respect to women's access to employment and occupation and conditions of work, the Committee notes from the ICFTU's communication that women are under-represented in many disciplines and are mainly employed in self-employment or in low-wage and low-skilled work, often in the informal economy. Moreover, the ICFTU indicates that the state policy encouraging self-employment as a response to women's unemployment has had minimal economic returns and that few women have been able to move out of low income self-employment. Furthermore, referring to the ILO study entitled "Sexual harassment at work – Sri Lanka study with focus on the plantation sector" of 2001, the ICFTU expresses concern over the high incidence of sexual harassment in the private sector, especially on tea plantations, where the majority of workers (90 per cent) are women with mostly male supervisors. The ICFTU also highlights the poor working conditions in the EPZs, where the majority of the workers are women, including long working hours, restrictions on bathroom use and rest breaks and the unattainable or excessive production quota.

3. The Committee notes that the Government's report does not contain a reply to the concerns raised by the ICFTU. However, the Committee also understands that the Government and the social partners have undertaken a number of initiatives to promote gender equality in employment and occupation that may assist in addressing some of the issues raised. As such, the Committee is aware that, with the assistance of the ILO, a tripartite gender audit was conducted in 2004 with the participation of the Ministry of Labour Relations and Foreign Employment, the Employers' Federation of Ceylon (EFC), the Ceylon Workers' Congress (CWC) and the Sri Lanka Nidahas Sevaka Sangamaya (SLNSS). Recommendations for follow-up included capacity building of the Government and the social partners with respect to gender equality as well as measures to address sexual harassment at the workplace. In this regard, the Committee notes

with interest that the EFC has adopted Guidelines for Company Policy on Gender Equity/Equality, recommending measures and strategies relating to working conditions, the prevention of sexual harassment, and workers with family responsibilities. The Committee further notes with interest from the Government's report that a Gender Bureau has been set up under the Ministry of Labour Relations to strengthen gender equality in all laws and regulations, policies and programmes, and that the 2001 National Plan of Action for Women is currently being revised and updated. ***The Committee welcomes these initiatives and encourages the Government to continue to provide information on the measures taken or envisaged, in cooperation with the social partners, to promote equality of opportunity and treatment between men and women in employment and occupation, and the results achieved. It requests the Government to provide information in its next report on the specific measures taken or envisaged, and the results achieved, including by the Gender Bureau, with respect to the following: the promotion of upward employment mobility of women and their access to a wider range of sectors and occupations; the prohibition and prevention of sexual harassment in the workplace, particularly in the plantations sector; and the improvement of working conditions in the EPZs, where the majority of the workers are women. Please provide a copy of the new National Plan of Action for Women, once adopted.***

The Committee is raising other points in a request addressed directly to the Government.

Trinidad and Tobago

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

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 communication submitted by the Employers' Consultative Association (ECA) of Trinidad and Tobago, dated 12 August 2005, which has been sent to the Government for its comments thereon.

Article 1 of the Convention. Discrimination on grounds of sex. The Committee had previously pointed out that the wage differentials contained in some collective agreements between workers and public sector employers, such as Port-of-Spain City Corporation, San Fernando City Corporation and regional corporations, which were based on the grounds of sex rather than on criteria relating to the work performed, are not in conformity with the Convention's principle of equal remuneration for work of equal value. The Committee notes ECA's comment that the Government should implement policies and procedures to eliminate these sex-based wage differentials and to ensure that there is closer adherence to the Convention. In this regard, the Committee notes the information in the Government's report that it approaches the removal of sex-based differentials in the salary scales in some agreements by promoting objective job appraisal exercises. ***Noting further the Government's indication that some collective agreements make express provisions for job evaluation exercises to be carried out jointly between the employer and trade union, the Committee asks the Government to provide information on any job evaluation exercises carried out in the sectors covered by the agreements referred to above and the progress made in removing the sex-based wage differentials contained in them. Please also indicate any other measures taken to ensure that men and women have equal access to jobs covered by the collective agreements and to ensure that other such agreements entered into in the future do not include sex-based wage differentials.***

The Committee is raising other matters in a request addressed directly to the Government.

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (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:

The Committee notes the communication from the Employers' Consultative Association (ECA) of Trinidad and Tobago of 12 August 2005, which has been sent to the Government for its comments thereon.

1. ***Article 1 of the Convention. Application in law.*** The Committee notes the Government's confirmation that the Equal Opportunity Act was declared unconstitutional by the High Court of Trinidad and Tobago on 10 May 2004 and that an appeal was subsequently filed against this decision. Owing to this, the Equal Opportunity Commission remains at present inoperable. The Committee notes further the statement by the ECA that a review of the law is being undertaken. ***The Committee asks the Government to keep it informed about the appeal of the High Court decision and any new developments with respect to the status of the Equal Opportunity Act, or any other legislation adopted relating to equality of opportunity and treatment in employment and occupation.***

2. For over 15 years the Committee has expressed its concern about the discriminatory nature of provisions of several government regulations, which provide that married female officers may have their employment terminated if family obligations affect their efficient performance of duties (section 57 of the Public Service Commission Regulations; section 52 of the Police Commission Regulations; and section 58 of the Statutory Authorities' Service Commission Regulation). It also noted that a female officer who marries must report the fact of her marriage to the Public Service Commission (section 14(2) of the Civil Service Regulations). With respect to section 14(2) of the Civil Service Regulations, the Committee had taken note of the Government's view that this provision is not considered discriminatory in Trinidad and Tobago, as it is an administrative matter related to the practice of women changing their names upon marriage. However, in order to avoid the potential discriminatory impact of such a provision on women, the Committee had suggested that the Civil Service Regulations be amended to require notification of name change of both men and women. ***The Committee regrets that, despite the fact that the Government has repeated for many years that measures had been taken to repeal and amend the discriminatory provisions of the various Regulations noted above, no such action has yet been undertaken. It is, therefore, bound to recall that under Article 3(c) of***

the Convention, every Member must, by methods appropriate to national conditions and practice, repeal any statutory provisions and modify any administrative instructions or practices that are inconsistent with the policy designed to promote equality of opportunity and treatment in respect of employment and occupation. The Committee urges the Government to take serious action to bring the aforementioned legal provisions into conformity with the Convention and to submit copies of the revised legislation as soon as adopted.

The Committee is raising other points in a request addressed directly to the Government.

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

Tunisia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)

Discrimination on grounds other than sex. The Committee notes with regret that, once again, the Government's report does not contain information on any measures adopted to promote equality of opportunity and treatment on the basis of criteria other than sex. For several years, the Committee has been noting that the Convention requires the Government to declare and pursue a national policy designed to promote equality of opportunity and treatment with a view to eliminating any discrimination in employment on the basis not only of sex, but also the other grounds enumerated in *Article 1(1)(a) of the Convention*, namely race, colour, religion, political opinion, national extraction and social origin. The Committee also observes that the existence of legislation that makes no distinction based on these various grounds is not sufficient in itself to ensure the full application of the Convention. ***Recalling in particular its previous comment with respect to the absence of data on the ethnic composition of Tunisian society, the Committee urges the Government to include in its next report detailed information on the situation of minority groups in relation to employment and occupation, especially for the Berber (or Amazigh) population. Please also provide information on the practical measures taken or envisaged to prohibit discrimination on the grounds of race, colour, religion, political opinion, national extraction and social origin in employment and occupation in accordance with the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

United Kingdom

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1971)

The Committee notes the Government's report, along with its statement before the Conference Committee on the Application of Standards in June 2006, the ensuing discussion and the conclusions of the Conference Committee. It also notes the communication dated 31 August 2006 submitted by the Trades Union Congress (TUC) on the application of the Convention.

1. The Committee notes with interest the report prepared by the Women and Work Commission (WWC) entitled "Shaping a Fairer Future" which considers a diversity of factors that have contributed to the persistent pay gap between men and women along with a range of solutions towards narrowing this gap. The Committee notes that the solutions identified in the report address four key areas including: (1) informed choices for girls at school; (2) combining work and family life; (3) lifelong training and learning; and (4) improving workplace practice. It notes, in particular, the discussion relating to the barriers that women face in lodging equal pay claims. On this matter, the Commission recommended that consideration be given to extending the concept of the hypothetical comparator to equal pay claims – a mechanism already in place under the Sex Discrimination Act – allowing women to draw on other evidence showing what a man might be paid in order to bring a claim. The WWC also recommends that the introduction of generic or representative equal pay claims be considered as a way to enable women to bring joint claims. ***The Committee welcomes the Government's indication that it is determined to address all the causes of the pay gap highlighted in the WWC's report, and requests information on its plan of action for implementing the WWC's recommendations and what impact the measures taken have had on addressing the root causes of pay inequality between men and women. The Committee also asks for a copy of the Commission's follow-up report, once available, assessing the implementation of its recommendations. Please also provide information on the results of the Discrimination Law Review with respect to the Equal Pay Act 1970 and whether the Government intends to introduce additional procedural options for equal pay claimants such as those noted above.***

2. *Measures to address the wage gap between men and women in the private sector.* With regard to the wage gap between men and women, the Government reports that, in 2005, it stood at 22.6 per cent in the private sector compared with 13.3 per cent in the public sector. The Committee notes that the Government and the Equal Opportunities Commission (EOC) continue to encourage private sector employers to carry out equal pay reviews (EPRs) on a voluntary basis. It notes from research conducted by the EOC in 2005, however, that only a third of large organizations in both the private and public sectors have completed an EPR, falling short of the EOC's target of 50 per cent by the year 2003. The research also showed that, if the current rate continues, the Government will not meet its own EPR target for large public sector firms by 2008 (45 per cent). In light of this slow progress, the Committee recalls the conclusions of the Conference

Committee on the Application of Standards in 2006 encouraging the Government to take more proactive measures to address the remaining gender pay differentials, particularly in the private sector. It also notes the TUC's submission arguing for the introduction of mandatory pay reviews in the private sector in order to require employers to demonstrate that they respect the principle of equal remuneration and that their pay systems are not discriminatory. *Given that the Government's efforts to encourage employers to carry out voluntary equal pay reviews have not met expectations, and considering the Government's indication that it is not convinced of the need for a gender equality duty in the private sector, the Committee asks the Government to provide information on what additional measures it is taking or considering to ensure the application of the principle of equal remuneration in the private sector, particularly in light of the recommendations of the WWC. The Government is also asked to keep the Committee informed of the progress made towards encouraging more private sector employers to conduct equal pay reviews, along with details on the contribution of the EOC and Equal Pay Panel of Experts in this regard. Please also indicate what further measures have been taken to engage with the social partners on this matter as encouraged by the Conference Committee in its conclusions.*

3. *Part-time and flexible work.* The Committee notes that, in 2005, the average hourly pay for women working part time was 61.4 per cent of the average hourly pay of men working full time – a situation which the WWC considers unacceptable. According to the WWC, women returning to the labour market after time spent looking after children often encounter difficulty finding work that matches their skills. Those looking for part-time work crowd into a narrow range of lower-paying occupations due to a lack of quality part-time jobs. Often they have to change employer and occupation – and accept lower pay – to get part-time work. Furthermore, research by the EOC on flexible work showed that working part time has a detrimental and long-term impact on women's earnings. The Government indicates that there has been a greater use of flexible work arrangements, which has significantly benefited women as well as men. It reports that the introduction of a right to request flexible work has seen 30 per cent more mothers and three times as many fathers working on a flexitime basis as compared to 2002. This in turn has enabled mothers in particular to stay with the same employer after returning to the labour market rather than having to look for lower-paid part-time work elsewhere. While acknowledging these positive developments, the Committee notes the WWC's numerous recommendations touching on part-time and flexible work arrangements, including its recommendation that the Government establish a UK-wide quality part-time work change initiative to support new measures aimed at achieving a culture change, so that more senior jobs – particularly in the skilled occupations and the professions – are more open to part-time and flexible work. The Committee also notes in this regard the conclusion of the Conference Committee on the Application of Standards that special attention should be given to the temporary and part-time work sector, having regard to both the gender pay gap and the concentration of women in that sector. *The Government is asked, in light of the WWC's recommendations, to indicate what measures it is adopting or considering to further address the significant pay disadvantages facing part-time women workers.*

The Committee is raising other points in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

Legislation. The Committee notes with interest the numerous legislative developments in the field of discrimination, in particular the adoption of the Equality Act 2006, establishing a new Commission for Equality and Human Rights (CEHR), and creating a duty for public authorities to promote equality of opportunity between men and women and prohibit sex discrimination. It also notes the adoption of the Employment Equality (Age) Regulations 2006, prohibiting discrimination on the basis of age in employment, self-employment, occupation and vocational training. The Committee further notes the adoption of the Disability Discrimination Act 2005, which extends the coverage of the 1995 Act to 250,000 people living with cancer, HIV infection and multiple sclerosis. The Government reports that, in addition to these developments, a discrimination law review (DLR) is under way, involving employers' and workers' representatives to address concerns that there are inconsistencies in the current anti-discrimination legislative framework. The Government anticipates that this review will lead to the drafting of a single equality bill. *Noting that the CEHR will become operational in 2007, and that the final report of the DLR is due in the same year, the Committee asks the Government to keep it informed regarding the impact of these and other legal developments in promoting equal opportunity and treatment in employment and occupation. Please also provide information on the progress made towards the drafting of a single equality bill. Furthermore, noting that the age discrimination regulations came into force on 1 October 2006, the Committee asks the Government to provide information in its next report on this law's practical application including the number and outcome of age discrimination complaints brought under these new regulations.*

The Committee is raising other matters in a request addressed directly to the Government.

Uruguay

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1989)

The Committee notes the comments of the Inter-Union Assembly of Workers–National Convention of Workers (PIT–CNT), sent with the Government's report and received on 23 October 2006.

Wage boards. The Committee notes the PIT–CNT’s indication that wage board decrees still contain discriminatory criteria, such as the female form of names for certain activities (*oficial cortadora* (cutter), *mucama* (maid), *secretaria* (secretary), *lavandera* (washerwoman), *operaria volante* (temporary manual worker), etc.) and that 85 per cent of these decrees contain no general clauses on equality. The PIT–CNT indicates that these instruments are those that are most often and directly used by workers, in particular at trade union level, and that the incorporation into such decrees of the principle set forth in the Convention would constitute an important means of dissemination and awareness raising. Finally, it indicates that women are under-represented on the wage boards mentioned. ***The Committee asks the Government to provide information regarding any measures taken to address the issues raised by the PIT–CNT. It also asks the Government to provide information on the manner in which it collaborates with employers’ and workers’ organizations so as to ensure that the principle set forth in the Convention is applied. It also asks the Government to explain the interrelationship between the Tripartite Commission on Equality of Opportunity and Treatment in Employment and the wage boards.***

The Committee is also raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1989)

The Committee notes the comments of the Inter-Union Assembly of Workers–National Convention of Workers (PIT–CNT), sent with the Government’s report and received on 23 October 2006.

1. *National policy on equality between men and women.* The Committee notes that the PIT–CNT reiterates the issues it raised in its 2002 communication, namely, the lack of necessary infrastructure within the Tripartite Commission on Equality of Opportunity and Treatment in Employment, the non-application in practice of Act No. 16045 prohibiting all forms of discrimination that violate the principle of equal treatment and opportunity for both sexes, and the consequent persistence of discriminatory situations, due, in particular, to the poor dissemination and awareness of this legislation. The Committee notes that the Government, in its comments on the PIT–CNT’s observations, indicates that it is providing the Tripartite Commission with logistical support through the Human Rights Advisory Service and that the Commission’s infrastructure has been strengthened with the aid of the Ministry of Labour and Social Security. The Committee notes the activities undertaken by the National Employment Directorate and the Tripartite Commission in respect of training, guidance, dissemination, awareness raising and the compiling of statistical data. ***The Committee requests the Government to keep it informed of the measures adopted or envisaged to give effect to the Convention and reminds the Government to provide information on the impact of such measures in practice, including, if possible, statistical data.***

2. *Appeal procedures.* With regard to the special, expedited procedure provided for in Act No. 16045, applicable to reports of discrimination violating the principle of equality of treatment and opportunity for both sexes, and the ruling of the law courts establishing that this procedure had been abolished by the General Code of Legal Proceedings, the Committee notes the Government’s indication that the Ministry of Labour and Social Security is studying the possibility of preparing an official initiative to establish a dispute settlement instrument that will respond effectively to the key principles of labour-related issues. The Committee notes that the PIT–CNT stresses the need to implement a flexible complaints mechanism to resolve labour discrimination disputes and that, in this respect, the burden of proof should be reversed, placing the onus on employers, and protection should be afforded to workers against reprisals for complaints lodged or statements made. The Committee notes that the Government’s report refers indirectly to the difficulties that workers have in providing evidence and to the lack of protection given to complainants, by indicating that the Ministry of Labour and Social Security, through the General Labour Inspectorate, implemented a summary procedure for complaints relating to sexual harassment, but that the complaints lodged within this framework were rejected for lack of evidence or due to their withdrawal by the complainant. ***The Committee hopes that the Government’s legislative proposal will include a flexible complaints mechanism that takes into account the difficulties that the worker has in producing evidence of discrimination and the need to protect complainants, so as to guarantee the effectiveness of the procedure.***

The Committee is raising other points in a request addressed directly to the Government.

Yemen

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

National policy with respect to political opinion, social origin and national extraction. For a number of years, the Committee has been stressing the importance of declaring and pursuing a national equality policy covering all the grounds enumerated in the Convention. In this context, it has also been requesting the Government to provide information regarding any legislative or other measures taken or envisaged aimed at the application of the principle of prohibiting discrimination in employment and occupation on the basis of political opinion, social origin and national extraction. The Committee regrets that the Government has once more omitted to provide additional information in this regard. ***The Committee therefore urges the Government to include in its next report detailed information on all the measures taken to ensure that no discrimination on the basis of political opinion, social origin and national extraction occurs in practice in relation to employment and occupation.***

The Committee is raising other points in a request directly addressed to the Government.

Zimbabwe

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

The Committee notes the communication dated 1 September 2006 received from the Zimbabwe Congress of Trade Unions (ZCTU), concerning the application of the Convention, which was forwarded to the Government on 3 October 2006 for comments. As far as the ZCTU's comments relate to freedom of association and the right to collective bargaining, the Committee will address them under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). ***With regard to the issues raised relating to pregnancy and maternity, as well as discrimination based on the ground of political opinion, the Committee requests the Government to provide a reply with its next report.***

The Committee is raising other points in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 100** (Albania, Algeria, Angola, Argentina, Australia, Bahamas, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chad, Chile, China, China: Macau Special Administrative Region, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Democratic Republic of the Congo, Denmark, Dominica, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Finland, France: French Guiana, France: Guadeloupe, Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Guyana, Hungary, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jordan, Kazakhstan, Kenya, Republic of Korea, Kyrgyzstan, Latvia, Lesotho, Lithuania, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Republic of Moldova, Mongolia, Morocco, Nigeria, Norway, Panama, Papua New Guinea, Paraguay, Poland, Portugal, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Sierra Leone, Slovenia, Spain, Sri Lanka, Swaziland, Tajikistan, United Republic of Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, United Kingdom, Uruguay, Uzbekistan, Yemen, Zambia, Zimbabwe); **Convention No. 111** (Albania, Algeria, Antigua and Barbuda, Argentina, Australia, Bahamas, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chad, Chile, China: Macau Special Administrative Region, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Finland, France: French Guiana, France: Guadeloupe, Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Guyana, Hungary, Indonesia, Ireland, Italy, Jamaica, Jordan, Kazakhstan, Kenya, Republic of Korea, Latvia, Lesotho, Lithuania, Malawi, Mali, Malta, Mauritania, Republic of Moldova, Mongolia, Morocco, Mozambique, Nigeria, Papua New Guinea, Paraguay, Poland, Portugal, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Serbia, Slovenia, Spain, Sri Lanka, Swaziland, United Republic of Tanzania, Togo, Trinidad and Tobago, Tunisia, United Kingdom, Uruguay, Uzbekistan, Yemen, Zambia, Zimbabwe); **Convention No. 156** (Belize, Bolivia, El Salvador, Ethiopia, France, Greece, Guatemala, Guinea, Republic of Korea, Norway, Russian Federation, San Marino, Serbia, Slovakia, Spain, Uruguay).

Tripartite Consultation

Albania

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1999)

Tripartite consultations required by the Convention. The Committee notes the information provided in the Government's report received in November 2006. It notes that, following consultations held in the National Labour Council (NLC), Conventions Nos. 102, 143 and 168 were ratified in 2006. In its report, the Government further reports that Conventions Nos. 88, 122, 142 and 158 have been discussed in the NLC and its specialized committees. The Government also indicates that the NLC has not held a meeting for a period of five months due to a judicial dispute concerning the union leadership. However, consultations in the tripartite committees of the NLC have taken place on some issues. *The Committee refers to its previous comments, and asks the Government to continue providing detailed information on the measures taken to ensure effective tripartite consultations within the meaning of the Convention, including further information on the consultations held by the NLC on each of the subjects listed in Article 5 during the period covered by the next report.*

Barbados

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

Effective tripartite consultations. In its previous comments, the Committee hoped that progress would be made in the establishment of a tripartite committee and in the consultations held therein on the matters covered by the Convention. The Committee therefore notes with satisfaction that a tripartite committee was established by the Government comprising representatives from the Congress of Trade Unions and Staff Associations of Barbados and from the Barbados Employers' Confederation. The inaugural meeting on 18 August 2004 discussed such matters as the role and mandate of the committee, the training and orientation programme for committee members, the status of Conventions for ratification, the preparation of reports and questionnaires for the 94th Session of the International Labour Conference. The Government's report received in April 2006 also said that the representative of the Barbados Employers' Confederation indicated that there was a need to harmonize the reports being forwarded to the ILO. The employers' representative requested that, after a report is compiled by the Ministry, it should be sent to the Barbados Employers' Confederation and to the Congress of Trade Unions and Staff Associations of Barbados before being forwarded to the ILO. The Committee notes that the request by the employers' organization is in conformity with the procedures provided for in *Article 5, paragraph 1(d), of the Convention*. The Committee points out that one of the subjects to be dealt with in the consultations provided for in the Convention concerns matters arising out of reports to be made to the International Labour Office under article 22 of the ILO Constitution. It also points out that for such consultations to be effective it would be appropriate for employers' and workers' organizations to become acquainted with the content of the reports due under the ILO Constitution. The Committee recalls that the reports requested must reach the International Labour Office within a prescribed time limit. *Consequently, the Committee hopes that the Government and the social partners will make appropriate arrangements to ensure "effective consultations" between social partners on the matters covered by the Convention (Article 5, paragraph 1) to the satisfaction of all the parties. Furthermore, the Committee would appreciate it if the Government would continue to report on the nature of any reports and recommendations produced as a result of the activities of the tripartite committee.*

Belarus

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1993)

1. *Effective tripartite consultations.* In reply to its 2005 observation, the Government indicates in its report received in October 2006 that the motional Group of Experts on the application of international labour standards of the ILO held a session on 19 May 2006. The session was attended by representatives of the Federation of Trade Unions of Belarus, as well as by a representative of the Belarusian Congress of Democratic Trade Unions (CDTU). The meeting also included representatives of the Ministries of Labour and Social Protection, Justice and Foreign Affairs, as well as of the Confederation of Industrialists and Entrepreneurs. The two items discussed at the meeting were the agenda of the 95th Session of the International Labour Conference and the preparation of reports on the application of ratified Conventions, that is, two of the five matters referred to in *Article 5, paragraph 1, of the Convention*.

2. The Committee recalls that, in its previous comments, it noted the report of the Commission of Inquiry appointed under article 26 of the ILO Constitution to examine the situation of trade union rights in Belarus. The Committee expressed the hope that the important measures that the Government was called upon to adopt in order to respond to the

recommendations of the Commission of Inquiry would also ensure the effective application of Convention No. 144. In particular, the Committee recalls that the Commission of Inquiry recommended that the CDTU should be allowed to participate through whichever representative it designates in the work of the National Council on Labour and Social Issues.

3. *The Committee requests the Government to report on the progress made in the application of Articles 1, 2 and 5 of the Convention to ensure the free choice of workers' representatives in tripartite consultations on international labour standards. In particular, it requests the Government to report in detail on the measures taken to implement effective tripartite consultation on all the matters relating to international labour standards covered by the Convention and to clarify the manner in which the meetings of the National Council on Labour and Social Issues contribute to the holding of tripartite consultations within the meaning of the Convention.*

Botswana

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

Effective tripartite consultations. The Committee notes the Government's brief report received in June 2006 which contains a statement indicating that no consultations have been held on the matters set out in *Article 5, paragraph 1, of the Convention* during the period covered by the report. The Government is consulting the social partners and other stakeholders on the establishment of consultative machinery for the purpose of implementing the Convention. The Government further indicates that it noted the matters raised by the Committee in the 2004 direct request. In this respect, the Committee draws the Government's attention to the fact that each Member which ratifies the Convention undertakes to operate procedures which ensure effective consultations on all aspects covered by *Article 5*. The nature and form of such procedures are to be determined in each country in accordance with national practice after consultation with the representative organizations, where such procedures have not yet been established. *The Committee hopes that the Government will be in a position to provide information in its next report on the operation of procedures established in accordance with Article 2 and on the content of consultations which have been held during the period covered by the next report on each of the matters set out in Article 5, paragraph 1, indicating their frequency and the nature of any reports or recommendations resulting from these consultations. It also hopes that the Government will be in a position to supply information on the financing of any training necessary for persons participating in the consultative procedures (Article 4, paragraph 2) and on any consultations held with the representative organizations concerning the working of the procedures (Article 6).*

Burkina Faso

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2001)

1. *Consultation mechanisms and tripartite consultation required by the Convention.* In response to the Committee's previous comments, the Government indicates that it is currently setting up mechanisms for consultation on various issues, including those covered by the Convention. The consultations covered by the Convention are currently addressed in an ad hoc manner and are pursued with a view to establishing an appropriate mechanism. *The Committee refers to Article 2 of the Convention and invites the Government to indicate in its next report the outcome of consultations held on the establishment of mechanisms to ensure effective tripartite consultation on all the issues concerning international labour standards set forth in Article 5, paragraph 1. The Committee also refers to its observation on the obligation to submit the instruments adopted by the International Labour Conference to the National Assembly (article 19 of the ILO Constitution), and hopes that the Government's next report will contain relevant information on the prior tripartite consultations held in this respect (Article 5, paragraph 1(b), of the Convention).*

2. *Financing of training.* The Government also indicates that, since the consultation mechanism has not yet been set up, no training has yet been financed. The Committee hopes that, in its next report, the Government will be able to indicate any arrangements made for the financing of any necessary training of participants in consultative procedures (*Article 4, paragraph 2*).

Burundi

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

Tripartite consultations required by the Convention. The Committee notes the Government's report received in June 2006 and the comments of the Trade Union Confederation of Burundi (COSYBU), received in September 2005, in which the trade union organization deplores the lack of time accorded to tripartite consultations in which it would wish to participate more intensively. In reply to previous comments, the Government states that tripartite consultations have not

been held on the possibility of ratifying ILO instruments, on the reports due under article 22 of the ILO Constitution and on proposals for the denunciation of ratified Conventions. ***Noting the Government's statement that its next report will undoubtedly contain the outcome of the tripartite consultations held, the Committee hopes that the Government will be in a position to provide detailed information on the content and outcome of the tripartite consultations held during the period covered by the next report, particularly on issues related to the reports to be made to the ILO and the re-examination of unratified Conventions and Recommendations (Article 5, paragraph 1(c) and (d), of the Convention).***

Chad

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1998)

1. *Consultation mechanisms and tripartite consultation required by the Convention.* The Committee notes the Government's report received in March 2006, which contains certain indications in response to its previous comments. The Committee also acknowledges the national plan for the implementation of the African Union Plan of Action for the Promotion of Employment and Poverty Alleviation, published by the Ministry of the Public Service, Labour and Employment of Chad in June 2005. The Committee notes with interest that one of the national plan's objectives is to promote social dialogue and tripartism. In Chad, social dialogue, in the form of a permanent consultation process with the social partners on problems relating to labour in the broadest sense of the term, has been institutionalized, but is inadequate in certain ways, mainly due to the weakness of the institutions set up for this purpose. In order to improve social dialogue, the national plan envisages providing these institutions with operating resources and reinforcing the capacity of the social partners through the provision of training and information. The Committee also notes that the social dialogue institutions – particularly the High Committee for Labour, Employment and Social Security – had been indicated by the Government in its previous reports as being in charge of the tripartite consultations required by the Convention. ***The Committee hopes that the Government will provide information in its next report on any progress that is made in reinforcing social dialogue institutions with a view to ensuring that the consultations held between representatives of the Government, employers and workers, on all the issues set forth in Article 5, paragraph 1, of the Convention, are effective within the meaning of Article 2, paragraph 1.***

2. *Administrative support and training.* The Committee notes that the Government indicates in its report that, under section 15 of Decree No. 184 of 16 April 2002, the operating costs of the permanent secretariat of the High Committee for Labour and Social Security rest with the State and are covered by the State budget. The Committee notes that, by virtue of section 2 of the Order of 3 May 2000, the main task of the national committee responsible for monitoring social dialogue in Chad is to make proposals concerning the continued training of the social partners and of the administration. ***The Committee invites the Government to describe all the arrangements made for the financing of any necessary training of participants in consultative procedures (Article 4, paragraph 2).***

3. *Issuing of annual reports on the working of the procedures.* The Committee notes that, under the terms of section 13, paragraph 1, of Decree No. 184 of 16 April 2002, minutes are prepared for each session of the High Committee for Labour and Social Security. ***The Committee asks the Government to indicate whether an annual report on the working of the procedures provided for in the Convention is issued or envisaged and, if not, to give particulars on the consultations that have taken place with the representative organizations on this question (Article 6).***

Democratic Republic of the Congo

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2005 observation, which read as follows:

The Committee notes the comments of the Confederation of Trade Unions of the Congo (CSC), supported by the World Confederation of Labour (WCL) and transmitted by the Government in September 2005, concerning, among other matters, the failure to transmit the report on the Convention to trade union organizations. The Committee requests the Government to provide its observations on this subject. Furthermore, it recalls that its previous comments related to the following points.

1. *Effective tripartite consultations.* The Committee noted from the Government's previous report that the National Labour Council, a tripartite advisory body, has general competence in the field of labour and that a tripartite committee for the implementation of international labour standards was to be established. It also noted that, since the procedure is in the process of being established, there had not been any consultations on the matters set out in *Article 5, paragraph 1*, of the Convention. In this respect, the Committee once again draws the Government's attention to the fact that each Member which ratifies the Convention undertakes to operate procedures which ensure effective consultations on all aspects covered by *Article 5*. The nature and form of such procedures are to be determined in each country in accordance with national practice, after consultation with the representative organizations, where such procedures have not yet been established. ***The Committee hopes that the Government will be in a position in its next report to provide information on the operation of procedures established in accordance with Article 2 and on the content of consultations which have been held during the period covered by the next report on each of the matters set out in Article 5, paragraph 1, indicating their frequency and the nature of any reports or recommendations resulting from these consultations. It also hopes that the Government will be in a position to supply information on the***

administrative support provided for the procedures envisaged in the Convention (Article 4, paragraph 1) and on any consultations held with the representative organizations concerning the working of the procedures (Article 6). The Committee also requests the Government to provide detailed information on the consultations held in the National Labour Council on the subjects covered by the Convention.

2. Free choice of representatives. With reference to its previous comments and to the recent observations made by the CSC, the Committee requests the Government to describe in its next report the manner in which the representatives of employers and workers are selected for the purposes of the Convention (Article 3, paragraph 1).

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

Grenada

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

1. *Tripartite consultations required by the Convention.* In reply to its previous comments, the Committee notes the Government's report received in April 2006, which refers to the provisions of the Employment Act, 1999, establishing the Labour Advisory Board. ***The Committee again requests the Government to provide particulars of the consultations held by the Labour Advisory Board on each of the matters referred to in section 21(2)(a) of the Employment Act, 1999.*** In this respect, the Committee recalls the comments that it has been making for several years regretting that the Government has not provided information on the consultations held on all the matters covered by *Article 5 of the Convention*, and in particular in relation to the obligation to submit to Parliament the instruments adopted by the Conference (article 19 of the ILO Constitution). It recalls that the Convention calls upon the Government to consult the representative organizations before finalizing the proposals to be submitted to Parliament in relation to the constitutional obligation to submit the instruments adopted by the Conference (*Article 5, paragraph 1(b), of the Convention*).

2. *Financing of training.* The Committee recalls that, where training for participants of consultations proves necessary to enable them to perform their functions effectively, its financing should be provided through appropriate arrangements between the Government and the representative organizations (paragraphs 125 and 126 of the General Survey of 2000 on tripartite consultation). ***The Committee requests the Government to indicate whether such arrangements have been made and, if so, to describe them (Article 4, paragraph 2).***

3. *Operation of the consultation procedures.* The Committee recalls that *Article 6* does not impose an obligation to issue an annual report, but that it does require tripartite consultations to be held on whether or not such a report should be issued. The General Survey of 2000 indicates in this respect that the annual report could, for example, include information on the composition of the consultative bodies, the number of meetings, their agenda, the proposals made and the conclusions reached (paragraph 131). ***The Committee requests the Government to indicate whether the Labour Advisory Board has discussed this matter and to indicate the outcome of these consultations.***

4. The Committee recalls that the Government can call upon, if it considers it appropriate, the advice and assistance of the Office on the matters raised by this observation so that effective tripartite consultations can be held on the subjects covered by the Convention.

Guatemala

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1989)

1. *New rules for effective consultation.* In its observation in 2004, in which the Committee expressed interest in the adoption of new rules for the operation of the Tripartite Committee for International Labour Affairs, it also requested the Government to provide information on the progress achieved in holding effective consultations on the matters covered by the Convention. The Committee notes the Government's detailed report, received in September 2005, to which it attached copies of the correspondence exchanged with the social partners on the matters covered by the Convention. The Committee also notes with interest the content of the detailed minutes and of the activities reports of the Tripartite Committee, with around 30 meetings being held between July 2004 and June 2005. Seven organizations represent workers and one employers' organization with seven members composing the representation of employers on the Tripartite Committee. ***The Committee hopes that detailed information will continue to be provided in future reports on the progress achieved by the Government and the social partners in continuing to hold effective tripartite consultations, and particularly on the work of the Tripartite Committee for International Labour Affairs in relation to the matters covered by the Convention (Articles 2 and 5 of the Convention).***

2. *Strengthening tripartism and social dialogue.* The Committee once again notes that, in Case No. 2295, a number of issues have been raised in the Committee on Freedom of Association concerning the operation of the Tripartite Committee (the rights of titular and substitute members of the Tripartite Committee, the lack of assistance for trade union representatives at the meetings, the legitimacy of the composition of the Tripartite Committee). Furthermore, the Conference Committee, when discussing the application of the Freedom of Association and Protection of the Right to

Organise Convention, 1949 (No. 98), invited the Government to develop full social dialogue. *The Committee hopes that the Government will indicate in its next report the manner in which the consultations covered by the Convention have enabled the Government and the social partners to maintain and strengthen tripartism and social dialogue.*

Iceland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)

1. *Tripartite consultations required by the Convention.* The Committee refers to its 2006 observation on the obligation to submit to the competent authorities the instruments adopted by the Conference. It recalls that, since becoming a Member of the ILO in 1946, Iceland has ratified 22 Conventions and that 20 Conventions are still in force, including the eight fundamental Conventions.

2. The Committee notes that, for those States which have ratified Convention No. 144, effective tripartite consultations have to be held on the proposals to be made to the competent authorities when submitting the instruments adopted by the Conference (*Article 5, paragraph 1(b), of the Convention*). The Committee has pointed out, in particular in its 2000 General Survey on tripartite consultation, that the obligation to hold consultations must be fulfilled before the proposed measures are decided upon if the procedure is not to be a mere formality. As for the results of the consultations, although they are not binding on the Government, the latter is nonetheless obliged to ensure that tripartite consultations are effective, in accordance with *Article 2, paragraph 1, of the Convention*. For the Committee, “effective consultations” mean consultations which enable employers’ and workers’ organizations to have a useful say in matters relating to the activities of the ILO referred to in *Article 5, paragraph 1*. *In this respect, the Committee trusts that the Government and the social partners will examine the measures to be taken to hold “effective consultations” on the proposals made to Parliament when submitting the instruments adopted by the Conference (Article 5, paragraph 1(b), of the Convention). The Committee would be grateful if the Government would also provide particulars in its next report on the consultations held on the re-examination of unratified Conventions and of Recommendations to which effect has not yet been given, so that it can consider what measures might be taken to promote their implementation and ratification, as appropriate (Article 5, paragraph 1(c), of the Convention).*

Lesotho

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1998)

Tripartite consultations required by the Convention. The Committee notes the Government’s statement, made in its report received in June 2006, on the importance given by the Ministry of Employment and Labour to social dialogue and justifying the establishment of various tripartite bodies. The Committee notes, however, the Government’s regret that none of the consultations envisaged in *Articles 5 and 6 of the Convention* have taken place. The Government indicates that these problems will be included on the agenda of the next meeting of the National Advisory Committee on Labour (NACOLA), scheduled for 20 July 2006. *The Committee hopes that in its next report the Government will be able to provide precise information on the tripartite consultations held within the NACOLA with regard to each of the matters relating to international labour standards (Article 5, paragraph 1), and on the working of consultative procedures (Article 6).* The Committee refers to its previous comments and recalls once again that the Governing Body invited the States parties to the Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), and to the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65), to ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169), while denouncing Conventions Nos. 64 and 65. Furthermore, the States parties to the Underground Work (Women) Convention, 1935 (No. 45), are invited to ratify the Safety and Health in Mines Convention, 1995 (No. 176). *The Committee invites the Government to provide full information on the tripartite consultations that have taken place on the re-examination of unratified Conventions (Article 5, paragraph 1(c)).*

Malawi

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1986)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its 2005 observation, which read as follows:

1. The Committee notes the observations made by the Malawi Congress of Trade Unions (MCTU), forwarded to the Government in April 2005.

2. *Tripartite consultations required by the Convention.* In its communication, the MCTU indicates that the Government does not always carry out the consultations required by the Convention. It further states that the Government does not consult in order to seek the opinions of workers on matters to be discussed on the agenda before leaving for the Conference. The MCTU also indicates that the Employment Act was amended without consultation with the social partners, and that the Government

removed the service charge for hotel, food processing and catering workers without consulting the union. In this regard, the Committee recalls that the Convention requires to operate procedures which ensure effective consultations, with respect to the matters concerning international labour standards set out in *Article 5, paragraph 1, of the Convention* between representatives of the Government, of the employers and of the workers. ***The Committee requests the Government to provide detailed information on the consultations held on each matter set out in Article 5, paragraph 1, during the period covered by the next report, specifying their purpose and frequency, and the nature of any reports or recommendations resulting from the consultations.***

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

Nepal

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)

1. *Restoration of democracy.* In reply to its 2005 and 2006 observations, in which the Committee and the Conference Committee expressed their deep concern regarding the respect of fundamental rights in the country and its impact on the exercise of tripartite consultations, the Committee notes the Government's report received in September 2006. The Government indicates that many acts and regulations are in the process of being amended to address the changed political context. An interim Constitutional Statute has been formulated to pave the way for the election of the Constituent Assembly. Tripartism has been firmly institutionalized and all the major policy decisions and legislative initiatives have been formulated under the chair of the Director-General of the Department of Labour and Employment Promotion. The Government has requested both workers' and employers' organizations to sit together and make recommendations based on consensus. The Government firmly believes in the principle and value of tripartite consultations for maintaining cordial labour relations in the country. ***The Committee welcomes this approach and reiterates that social dialogue, and in particular the tripartite consultation required by Convention No. 144, could contribute to promoting democracy and decent work in Nepal. It would appreciate continuing to receive information in the Government's next report on the measures taken to promote tripartite consultation on international labour standards.***

2. *Tripartite consultations required by the Convention.* The Government states that it has made every effort to ensure effective consultations between and among the representatives of the Government, workers and employers on matters relating to the activities of the ILO, as set out in *Article 5, paragraph 1, of the Convention*. The Government refers to a tripartite consultation meeting organized by the ILO Office in Kathmandu to discuss the prospects for the ratification of Conventions Nos. 87, 102 and 105, including a high-level meeting to share international experience on the ratification of Convention No. 87. The Committee understands that, on 28 August 2006, members of Parliament passed a resolution directing the Government of Nepal to ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169). ***The Committee invites the Government to continue reporting on the progress made in relation to the tripartite consultations held concerning the ratification of fundamental and other Conventions, such as Conventions Nos. 102 and 122 on social protection and employment policy (Article 5, paragraph 1(c), of Convention No. 144).***

3. *Strengthening social dialogue. Support of the Office.* The Government indicates in its report that there have been consultations concerning the preparation of article 22 reports, replies to questionnaires on the 1998 Declaration, a draft National Plan of Action on Decent Work, Labour and Employment Policy, the use of the National Level Welfare Fund, the design and implementation of occupational safety and health standards, and programmes on bonded labour and child labour. These consultations are held in the Central Labour Advisory Committee and other tripartite committees, with the active involvement of the ILO Office in Kathmandu. ***The Committee once again welcomes this approach and emphasizes that, in view of the present circumstances in the country, there are opportunities to further deepen tripartite consultation and to intensify social dialogue in Nepal. The Office has the technical capacity to help strengthen social dialogue and support the activities of the Government, employers' and workers' organizations to engage in the consultations required by the Convention, as a contribution to restoring democracy and the process of peace building.***

Netherlands

Aruba

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

Strengthening social dialogue. In reply to its previous observations, the Committee notes the Government's report on the application of the Convention in Aruba received in May 2006. It notes with interest that, by a Decree of 12 August 2003, a tripartite committee for international labour affairs has been established. It notes that ten meetings were held during the period September 2003–May 2005, but only one of the three employers' representatives was able to attend the meetings. The Committee understands that the social partners have not reached consensus on the schedule of the meetings of the tripartite committee. ***It trusts that the Government and the social partners will examine the manner in which the***

Convention is applied in order to reinforce social dialogue in Aruba and that the Government's next report will contain indications on any measures taken to develop effective tripartite consultation in Aruba within the meaning of the Convention on all matters related to international labour standards set out in Article 5, paragraph 1, of the Convention.

Nicaragua

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)

Tripartite consultations required by the Convention. The Committee notes with interest the information contained in the Government's report received in September 2006. The Government states in its report that the principle of tripartism through social dialogue has been promoted and has resulted, with the technical assistance of the Subregional Office in San José and the interest shown by the Government and employers' and workers' organizations, in the approval by the National Assembly of Nicaragua of Act No. 547 of 8 August 2005 creating the National Labour Council. The Committee notes that this tripartite body is composed of an executive committee and a plenary assembly with the function of "serving as a consultative body with a view to the application of Convention No. 144 on tripartite consultations" (section 8(f) of the Act). *It requests the Government to continue providing detailed information on the consultations held during the period covered by the next report, including those in the National Labour Council, on each of the matters covered by Article 5, paragraph 1, of the Convention.*

Nigeria

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

1. *Consultations with representative organizations.* The Committee notes the Government's succinct replies in relation to its 2004 direct request. It notes that the Nigeria Employers Consultative Association (NECA) and the Nigeria Labour Congress (NLC) are consulted at the National Labour Advisory Council (NLAC) level with regard to some matters covered by the Convention. The Government further indicates that the National Labour Institutions Bill, which makes provision for the National Labour Advisory Council, is before the National Assembly. The Committee reminds the Government that it is important for employers' and workers' organizations to enjoy the right to freedom of association, without which there could be no effective system of tripartite consultation (paragraphs 39 and 40 of the General Survey of 2000 on tripartite consultation). *It asks the Government to keep the Committee updated as to the results of the ongoing legislative reform and its impact on the improvement of consultations with "representative organizations" which enjoy freedom of association, as required under this priority Convention (Articles 1 and 3 of the Convention).*

2. *Tripartite consultations required by the Convention.* The Committee recalls that the tripartite consultations covered by the Convention are essentially intended to promote the implementation of international labour standards and concern, in particular, the matters enumerated in Article 5, paragraph 1, of the Convention. *The Committee therefore requests the Government to provide full and detailed information on the tripartite consultations dealing with:*

- (a) *the Government's replies to questionnaires concerning items on the agenda of the International Labour Conference and the Government's comments on proposed texts to be discussed by the Conference (subparagraph (a));*
- (b) *questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution of the Organization (subparagraph (d)).*

3. *Prior tripartite consultation on proposals made to the National Assembly.* The Committee notes that the instruments adopted at the 95th Session of the Conference were submitted to the National Assembly for noting on 21 August 2006. The Government further states that there was no tripartite consultation as there was no request for their ratification. The Committee points out that, for those States which have already ratified Convention No. 144, effective prior consultations have to be held on the proposals made to the competent authorities when submitting the instruments adopted by the Conference (Article 5, paragraph 1(b), of the Convention). Governments have complete freedom as to the nature of the proposals to be made when submitting the instruments, but even if the Government does not intend proposing the ratification of a Convention, the social partners must be consulted sufficiently in advance for them to reach their opinions before the Government finalizes its decision (please refer to paragraph 89 of the Committee of Experts' General Report of 2004, as well as Part VII of the 2005 Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities). *The Committee trusts that the Government and the social partners will examine the measures to be taken with a view to holding "effective consultations" on the proposals made to the National Assembly when submitting the instruments adopted by the Conference, as required by the Convention.*

4. *Operation of the consultative procedures.* Finally, the Committee recalls its previous comments and once again requests the Government to indicate whether, in accordance with Article 6, the representative organizations have been

consulted in the preparation of an annual report on the working of the consultation procedures provided for in the Convention and, if so, to indicate the outcome of these consultations.

Norway

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1977)

Effective tripartite consultations. The Committee notes the Government's detailed report for the period ending September 2006 and the comments by the Norwegian Confederation of Trade Unions (LO–Norway). The Government indicates that the Norwegian ILO Committee was given updated information regarding Norwegian law and practice in relation to some 16 Conventions which have not been ratified by Norway. In this respect, LO–Norway states that there is too little emphasis on real discussions in the Norwegian ILO Committee concerning these Conventions and underlines the need to give priority to the process of the ratification of Conventions, in particular with regard to Convention No. 183. LO–Norway also finds it urgent to give more priority to the reporting obligations on ratified Conventions and to involve the social partners more in the elaboration of the reports to be supplied to the ILO. LO–Norway refers to certain recommendations that it made to the Government on the procedures to be followed for the satisfactory and timely handling of the reporting obligations in order to supply a truer picture of the work performed by the social partners. *The Committee invites the Government and the social partners to address the concerns of all participants in the operation of the procedures required to ensure effective consultations within the meaning of the Convention. It hopes that the Government and the social partners will examine the manner in which the Convention is being applied in order to ensure that all stakeholders take appropriate measures to achieve satisfactory application. It hopes that the Government's next report will also provide particulars of the consultations held on the re-examination of unratified Conventions and of Recommendations to which effect has not yet been given with a view to considering what measures might be taken to promote their implementation and ratification, as appropriate (Article 5, paragraph 1(c), of the Convention).*

Sao Tome and Principe

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1992)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2005 observation, which read as follows:

1. *Mechanisms for tripartite consultations and consultations required by the Convention.* The Committee takes note of the letter from the World Confederation of Labour (WCL) forwarding a statement by the General Union of Workers of Sao Tome and Principe (UGT–STP) to the effect that the National Council for Social Consultation, established in 1999, had never fulfilled its role. The UGT–STP asserts that the Council has held only two seminars with support from the Promotion of Social Dialogue Project (PRODIAL), and has discussed two bills on collective agreements and collective bargaining which have not been implemented. The Office sent the WCL's communication to the Government in October 2005.

2. In its observation of 2003, the Committee noted the minutes of a meeting of the National Council for Social Consultation that took place on 10 March 2003. It also noted the activities carried out by PRODIAL (a project financed by the Government of Portugal and executed by the Office). *The Committee requests the Government to supply a detailed report on the application of the Convention, containing information on progress in strengthening tripartism and social dialogue. It again requests the Government in its next report to provide specific information on the consultations that have been held on all the aspects of international labour standards referred to in Article 5, paragraph 1, 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

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1985)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2004 observation, which read as follows:

1. *Effective tripartite consultations.* The Committee notes the Government's report supplied in June 2004 indicating its commitment to promote tripartite consultation throughout the country as well as supporting the tripartite delegation to the International Labour Conference. It recalls that, at its 90th Session (June 2002), the Conference adopted a resolution concerning tripartism and social dialogue in which it emphasized that social dialogue and tripartism have proven to be valuable and democratic means to address social concerns, build consensus, help elaborate international labour standards and examine a wide range of labour issues in which the social partners play a direct, legitimate and irreplaceable role. *The Committee hopes that, in view of the present circumstances in the country, the Government and the social partners will examine how the Convention is applied and that the Government's next report will contain indications on any measures taken in order to implement effective tripartite consultation in the sense of the Convention (Articles 2 and 5 of the Convention).*

2. The Committee recalls that the Office has the technical capacity to help strengthen social dialogue and support the activities that governments and employers' and workers' organizations undertake for the consultations required by the Convention.

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

Slovakia

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2005 observation, which read as follows:

1. Following its previous comments, the Committee notes the Government's report received in January 2005, which contains replies to the comments formulated by the Confederation of Trade Unions of the Slovak Republic (KOZ SR) in October 2004. In its comments, KOZ SR had expressed its concern with shortcomings in social dialogue in 2003–04. In July 2003, KOZ SR requested the ratification of Conventions Nos. 135, 150, 151, 154, 158 and 181, but the tripartite working group that was established only met once, and has not resumed its activities since. It also observed that the Government had reduced the tripartite delegation to the Conference in 2003 and 2004, without prior consultation with the social partners. KOZ SR indicated that, in 2004, the Government stopped submitting draft acts and amendments to the Council of Economic and Social Agreement (CESA) and approved new regulations concerning public health service reform, law on family and other social laws, without prior consultations with the social partners. In the view of KOZ SR, the new rules place social partners in the role of statistic partners, with no tools and opportunities to influence efficiently the Government's policy with regard to the decision-making process in the matters of economic and social development.

2. In its reply, the Government indicates that the procedure for ratification of ILO Conventions was interrupted because amendments to national legislation were required. The delegation to the Conference was reduced for budgetary reasons. The Government also indicates that amendments to the law of 1999 on social dialogue were approved by Parliament on 21 October 2004. The CESA terminated its activities on 30 November 2004 and the Council of Economic Partnership and Social Partnership was established on 1 December 2004 as the new advisory and consultative body of the Government. The Government expects that, as a result of this legal adjustment, the dialogue with the social partners will improve. The Committee notes the statute of the Council of Economic and Social Partnership of the Slovak Republic, which entered into force on 1 December 2004, attached to the report.

3. The Committee further notes that the Government included in its report extracts of the Memorandum to the Government of the Slovak Republic on a draft law to amend the act on competence and the Act on Collective Bargaining, prepared by the International Labour Office in July 2004 – which was also sent to the social partners in August 2004. The Office recommended that the Government consult the social partners before preparing its regulation defining the composition, the rules and the mandate of the new Council for the Economic and Social Partnership of the Slovak Republic. The Office further recommended that particular consideration be given to creating within this Council a subcommittee dealing with international labour standards and ILO matters in general, within which tripartite consultation over international labour standards could take place between the Government and the social partners, which is common practice in a number of European Union countries. *In light of the above, the Committee again invites the Government and the social partners to promote and reinforce tripartism and social dialogue on the matters covered by the Convention. It also asks the Government to indicate in its next report if the subcommittee dealing with international labour standards within the new Council has been established. Please also report on the progress made in the establishment of effective tripartite consultations on all the matters covered by Article 5, paragraph 1, of the Convention during the period covered by the next report.*

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

Swaziland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2005 observation, which read as follows:

1. The Committee notes the Government's report received in November 2004 in reply to its 2001 direct request, as well as the communication from the Swaziland Federation of Trade Unions (SFTU) forwarded to the Government in November 2004.

2. *Tripartite consultations required by the Convention.* In its latest report, the Government indicates that it is contemplating denouncing the Recruiting of Indigenous Workers Convention, 1936 (No. 50), the Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65), and the Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104), and that it will inform the Committee on developments regarding the ratification of the Safety and Health in Mines Convention, 1995 (No. 176). In this regard, the Committee recalls that the ILO Governing Body has invited States parties to contemplate ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and denouncing Conventions Nos. 50, 64, 65 and 104 at the same time. *The Committee asks the Government to keep it informed of any developments in this regard (Article 5, paragraph 1(e), of the Convention).*

3. The Government also indicates that the Labour Advisory Board (LAB) is currently perusing the draft strategic action plan proposed by the Tripartite Workshop held in July 2004 under ILO auspices. *While taking due note of this information, the Committee requests the Government to provide detailed information on the consultations held by the LAB on each of the other*

matters set out in Article 5, paragraph 1, and to include information on the nature of the recommendations made by the LAB as a result of the consultations.

4. *The Committee asks the Government to continue to include in its next report information on any consultations on the working of the procedures provided for in the Convention (Article 6).*

5. Finally, in relation to the comments formulated by the Swaziland Federation of Trade Unions to the effect that workers' organizations were prevented from submitting their views in the Constitution-making process on issues related to their fundamental rights, the Committee recalls that, at its 90th Session (June 2002), the Conference adopted a resolution concerning tripartism and social dialogue in which it emphasized that social dialogue and tripartism have proven to be valuable and democratic means to address social concerns, build consensus, help elaborate international labour standards and examine a wide range of labour issues in which the social partners play a direct, legitimate and irreplaceable role. ***The Committee trusts that the Government's next report will contain indications on any measures taken in order to improve social dialogue in the country and to implement effective tripartite consultation in the sense of the Convention (Articles 2 and 5).***

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

Switzerland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2000)

1. *Effective tripartite consultations.* The Committee notes the Government's report for the period ending May 2006, which includes detailed reports of the sittings of the Tripartite Federal Commission on ILO Affairs of 4 March and 18 August 2005, 16 May 2006, and of the tripartite discussion of 28 November 2005. It also notes the comments made by the Swiss Federation of Trade Unions (USS) and the Confederation of Swiss Employers (UPS), forwarded with the Government's report. As it requested in its previous observation, the Committee has therefore been in a position to examine full and updated information on the tripartite consultations required by the Convention, and particularly on the work of the Tripartite Federal Commission.

2. In its comments of September 2006, the USS indicates that the Tripartite Federal Commission does not fully discharge its function and that the views of the employers' representatives are in most cases a pretext for immobility. According to the USS, no social partner should have a right of veto and, in the spirit of the Convention, which provides the basis for the Tripartite Federal Commission, each group should benefit from the same consideration. The UPS considers that the machinery for tripartite consultation established to give effect to the Convention cannot in any event replace the structure of social dialogue and direct collective bargaining between the social partners that is operational in Switzerland.

3. The Committee recalls that, at its 90th Session (June 2002), the International Labour Conference adopted a resolution concerning tripartism and social dialogue which indicates that social dialogue and tripartism have proved to be valuable and democratic means to address social concerns, build consensus, help elaborate international labour standards and examine a wide range of labour issues on which the social partners play a direct, legitimate and irreplaceable role. The Committee also notes that the USS, since the establishment of the Tripartite Federal Commission, has been calling for an improvement in the effectiveness of the procedures giving effect to the Convention. ***The Committee trusts that the Government and the social partners will continue to examine the manner in which the Convention is applied and that they will be able to report the initiatives taken to give satisfaction to all the parties involved in the consultations required by the Convention.***

4. *Training of participants and financing of procedures.* The Committee notes the new concerns expressed by the USS on the possible need for training of the members and financing of the work of the Tripartite Federal Commission. The UPS indicates that the social partners sitting on the Tripartite Federal Commission are fully aware of ILO matters. In this context, the Government indicates that the USS has intervened concerning the mandate of the Swiss Agency for Development and Cooperation in relation to the ILO technical cooperation project in the Balkans on support for trade union projects and the promotion of social dialogue. ***The Committee requests the Government and the social partners to continue providing information on the tripartite consultations held on other matters of common interest covered by Paragraph 6 of the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152).***

United Republic of Tanzania

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

1. *Establishment of the Labour, Economic and Social Council.* The Committee notes the Government's report for the period ending September 2006. The Committee notes that the Labour Advisory Council has been replaced by a new tripartite institution, the Labour, Economic and Social Council (LESCO), established under Act No. 7 of 2004 on labour institutions. The Government indicates that this Council began operating on 7 September 2005. ***The Committee asks the***

Government to specify in its next report the procedures introduced to ensure effective tripartite consultations (Article 2 of the Convention), and the manner in which the members of the Council are chosen (Article 3).

2. *Tripartite consultations required by the Convention.* The Committee notes the Government's statement to the effect that two sessions of tripartite consultation have taken place within the LESCO. ***The Committee once again asks the Government to provide detailed information on the content of the consultations that have taken place within the LESCO with regard to each of the matters set out in Article 5, paragraph 1, of the Convention, and on the recommendations resulting therefrom.***

3. *Administrative support and training.* The Committee notes the Government's statement to the effect that participants in tripartite consultations have received training in mediation and arbitration. ***The Committee invites the Government to continue providing updated information on this matter and to indicate the manner in which the necessary administrative support is provided for tripartite consultations, as required under Article 4.***

Togo

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2004 observation, which read as follows:

1. *Consultation procedures.* The Committee takes note of the Government's report received in September 2004. It notes in particular the project to create by the end of February 2005 a national task force on standards to be responsible for "consensus-based management of relations with the ILO essentially in matters pertaining to constitutional obligations and ongoing promotion of social dialogue". It requests the Government to keep it informed of the practical effect given to this project.

2. *Tripartite consultations required by the Convention.* The Committee also notes the information supplied by the Government on the activities of the National Labour Council for the period covered by the report. It again notes that the information is not specific enough to enable it to assess the effect given to this priority Convention. ***The Committee invites the Government to provide information on the consultations held on each of the matters set out in Article 5, paragraph 1, of the Convention, specifying their purpose, and frequency, and the nature of any reports or recommendations resulting from the consultations.***

3. The Government states that the main difficulty is finding funds for the activities of the bodies that conduct social dialogue and that extra assistance would be essential to strengthen such dialogue, which is becoming increasingly indispensable. The Committee hopes that the Office will be able to furnish its advice in response to the Government's request so that effective consultations can be held on the subjects covered by the Convention.

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

United Kingdom

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1977)

Effective tripartite consultations. The Committee notes the Government's detailed report for the period ending May 2006 and the comments by the Trades Union Congress (TUC). The TUC welcomes the effective tripartite consultation about the Labour Maritime Convention, 2006, and the additional meetings on the Conference agenda on the items on fishing, safety and health and the employment relationship. The TUC indicates that face-to-face tripartite consultation on most ILO matters is restricted primarily to the main meetings before the sessions of the Conference and the Governing Body. Consultation about the application of ratified Conventions in the United Kingdom, with the exception of Convention No. 182, remains restricted primarily to making the Government's article 22 reports available to the social partners for their comments. The Committee observes the TUC's concerns on the late delivery of reports, which prevents it from commenting on them in good time. ***The Committee refers once again to its previous comments, and in particular to its 2002 observation, and invites the Government and the social partners to address the concerns of all participants in the operation of the procedures required to ensure effective consultations within the meaning of the Convention. It hopes that the Government and the social partners will re-examine the manner in which the Convention is being applied with a view to ensuring that all stakeholders have taken appropriate measures to achieve the satisfactory application of the Convention.***

United States

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1988)

1. *Effective tripartite consultations.* The Committee notes the Government's report for the period ending July 2006, the comments of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), which were forwarded to the Government in November 2005, and the tripartite discussion that took place in June 2005 in the

Conference Committee on the application of this Convention. The Conference Committee hoped that the consultations concerning the ratification of Conventions Nos. 111 and 185 would be concluded in the near future. It requested the Government to take all the appropriate measures to promote tripartite dialogue on international labour standards and expressed the hope that in its next report the Government would provide information on the progress made to guarantee the holding in practice of tripartite consultations in a manner that was satisfactory for all the parties concerned.

2. In its 2005 comments, the AFL–CIO once again alleges a lack of commitment by the Government to the principles and obligations of the Convention. The AFL–CIO maintains that there has been little progress toward reaching the goal of the holding in practice of tripartite consultations in a manner that was satisfactory for all the parties concerned. It adds that progress toward the ratification of Convention No. 185 appears to be mired in inter-agency discussions about immigration security measures and that no progress was achieved with regard to the ratification of Convention No. 111. The AFL–CIO maintains that, without sustained and meaningful work by the President’s Committee on the ILO, the United States will continue to lag seriously behind the overwhelming majority of ILO Members in the ratification of Conventions, including those that are the foundation of the 1998 Declaration.

3. The Committee notes that the Government’s report does not include a reply to the AFL–CIO’s comments. It notes that there was no meeting of the President’s Committee on the ILO, but that the ILO Consultative Group met six times during the reporting period. The Tripartite Advisory Panel on International Labour Standards (TAPILS) met formally on one occasion during the period, principally to initiate a review of Convention No. 185. The Government includes in its report the agendas of those meetings and other information concerning the matters covered by *Article 5, paragraph 1, of the Convention*. ***The Committee refers to its 2004 observation and invites the Government and the social partners to address the concerns of all participants relating to the operation of the procedures required to ensure effective consultations within the meaning of the Convention. It also refers to the 2005 tripartite discussion in the Conference Committee and hopes that the Government and the social partners will re-examine the manner in which the Convention is being applied in order to ensure that all stakeholders take appropriate measures to achieve a satisfactory application.***

[The Government is asked to reply in detail to the present comments in 2007.]

Bolivarian Republic of Venezuela

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

1. *Tripartite consultations required by the Convention.* The Committee notes that, in reply to its observation of 2005 on the application of the Convention, the Government sent a communication, dated February 2006, and addressed by the Ministry of Labour to the Ministry of Foreign Affairs, asking that steps be taken to have the instruments still outstanding submitted to the National Assembly. ***The Committee hopes that the Government will be able to report that effective consultations were held with the social partners on the proposals put to the National Assembly at the time of the submission of the instruments adopted by the Conference, as required by Article 5, paragraph 1(b), of the Convention.***

2. ***The Committee refers the Government to its earlier observations and again requests it to provide up to date information on the tripartite consultations held on all the subjects covered by the Convention (Articles 2 and 5).***

3. Taking into account national circumstances, the Committee once again refers to the resolution concerning tripartism and social dialogue (adopted by the Conference at its 90th Session in 2002), which emphasizes that social dialogue and tripartism have proved to be valuable and democratic means to address social concerns, build consensus, help elaborate international labour standards and examine a wide range of labour issues in which the social partners play a direct, legitimate and irreplaceable role. ***The Committee trusts that the Government will provide information in its next report on the manner in which the “consultation policies” to which it refers in the report received in 2004 include measures to ensure that the consultations required by Convention No. 144 are carried out with “representative organizations” enjoying freedom of association (Article 1 of the Convention).***

Zambia

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1978)

The Committee notes the Government’s statement in its report received in August 2006 on section 79 of the Industrial and Labour Relations Act of 1993 in relation to the Tripartite Consultative Labour Council. As the Committee has been aware of this information for several years and has not been provided with any information on the activities of the Consultative Council since 2001, it recalls that, so that it can assess the manner in which effect is given in practice to the provisions of the Convention, it is necessary for the Government’s report to contain precise and up to date information on the implementation of the consultation procedures. ***The Committee notes that, under the terms of section 81(2) of the 1993 Act, the Tripartite Consultative Labour Council shall meet at least twice annually and it therefore requests the***

Government to provide precise and up to date information in its next report on the content and outcome of the tripartite consultations held, including in the Tripartite Consultative Labour Council, on each of the matters covered by Article 5, paragraph 1, of the Convention. Please also provide any relevant information on the application of the Convention in practice (Part V of the report form).

Zimbabwe

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1989)

1. *Effective tripartite consultations required by the Convention.* The Committee notes the information provided in the Government's report, as well as the comments of the Zimbabwe Congress of Trade Unions (ZCTU) received in September 2006. ***It notes that tripartite consultations are still being held on the ratification of Conventions Nos. 121, 122, 151, 156, 167, 175, 183 and 184, and requests the Government to keep it informed of the action taken as a result of these consultations (Article 5, paragraph 1(d), of the Convention).***

2. *Consultations with representative organizations.* The ZCTU indicates that the concept of tripartism is not taken seriously by the Government and that the decisions of the Tripartite Negotiating Forum (TNF), which is not governed by any statute, are subject to review by the Cabinet. According to the ZCTU, the Government, which has continued to promulgate new labour laws without consulting the social partners, takes time to send reports on the application of ILO Conventions to the trade union for comments, and often finds it difficult to furnish these reports, as well as interfering in the selection of worker representatives to tripartite meetings. The Government indicates in its report that tripartite consultations continue to be held within the auspices of the TNF and that it is currently working with its development partners, which include the ILO, on capacity building for the representatives of the Government and the social partners so that the TNF's deliberations are more effective in influencing socio-economic development. ***The Committee draws the Government's attention to the pending issues relating to the exercise of trade union rights and requests the Government to provide information in its next report on the progress achieved in establishing "effective" tripartite consultations with "representative organizations" enjoying the right of freedom of association on the matters relating to international labour standards covered by the Convention (Articles 1, 2 and 5 of the Convention).***

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 144** (Bahamas, Belize, Benin, Chile, Congo, Côte d'Ivoire, Guyana, Jordan, Kazakhstan, Kenya, Republic of Korea, Kuwait, Latvia, Madagascar, Mauritius, Mexico, Republic of Moldova, Mongolia, Namibia, Philippines, Poland, Portugal, Romania, Saint Kitts and Nevis, South Africa, Sri Lanka, Suriname, Syrian Arab Republic, Trinidad and Tobago, Uganda, Yemen).

Labour Administration and Inspection

Angola

Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)

The Committee notes the Government's report and the attached documents, including the annual inspection reports for 2004 and 2005, the statistical report on employment accidents for the years 2000–04, the report of the second methodological meeting of the heads of provincial labour inspection departments and Executive Decree No. 21 of 30 April 1998 issuing general regulations on employment accident prevention commissions.

1. *Strengthening of personnel and improvement of material working conditions in inspection services.* With reference to its previous observation, the Committee notes with interest the information reporting the strengthening of: (i) the staff of the labour inspectorate following a public competition resulting in the recruitment and training of 23 inspectors; (ii) means of transport, through the provision of 16 vehicles and 26 motorcycles; and (iii) office equipment (desks, computers and air conditioning), as well as the refurbishing and rehabilitation work on the most dilapidated premises.

2. *Need for legislative, structural and budgetary measures to ensure the effective operation of the labour inspection system.* The Committee notes that, according to the report of the second methodological meeting of the heads of provincial labour inspection departments (4–5 May 2005), the labour inspectorate suffers from a number of shortcomings and dysfunctions preventing its effective operation: the absence of texts implementing the Labour Code; the absence of labour inspection structures in the provincial directorates of Huambo and Namibe; the excessively weak cooperation of provincial judicial and financial authorities; and the manifest inadequacy of the proportion of the budget allocated to cover the operating expenses of inspection services. *The Committee hopes that the Government will not fail to ensure that these shortcomings are remedied rapidly through:*

- (i) *the identification of fields in which the legislation requires the adoption of regulations for its implementation in practice and tripartite consultation with a view to the formulation of appropriate provisions;*
- (ii) *the implementation of measures to facilitate effective and useful collaboration between the labour inspection services and other public or private bodies and institutions; and*
- (iii) *the determination of appropriate budgetary allocations for the normal operation of the inspection services taking into account the need for fuel, materials and office consumer items, as well as other ongoing operational expenses (rent, maintenance of premises, water supply, electricity, telephone, etc.).*

The Committee would be grateful if the Government would indicate in its next report any progress achieved in this respect, as well as the difficulties encountered.

The Committee is addressing a request directly to the Government on other matters.

Austria

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

The Committee notes with satisfaction details provided by the Government in reply to its previous comments on the measures undertaken to relieve labour inspectors from the tasks of policing illegal employment. The Government indicates that this duty was transferred to the Federal Ministry of Finance on 1 July 2002. A special unit of the customs administration KIAB (control of illegal employment of workers) combats illegal employment by checking work permits and thus the employment of foreigners. The focus of the controls carried out throughout the country is on the catering and construction industries. Findings from controls are reported to the respective competent authorities (administrative sanctions authorities, employment service and labour inspectorate) for the relevant proceedings.

The indication that it had been necessary to increase the staff of the control authorities to 300 shows that such activity requires the mobilization of considerable resources in terms of staff and time which inspectorates can only provide to the detriment of their primary duties. *Hence, the Committee welcomes that labour inspection activities now focus on the duties laid down by the Convention and would be grateful if the Government would provide further information as to the nature and the results of the proceeding carried on by inspectors in cases reported to them.*

Bangladesh

Labour Inspection Convention, 1947 (No. 81) (ratification: 1972)

The Committee notes the Government's report for the period ending on 30 October 2006. It also notes the observations on the application of the Convention received on 28 August 2006 from the Jatiya Sramik League, the Bangladesh Trade Union Kendra, the Jatiya Sramik Federation Bangladesh, the Jatiyo Sramik Jote, the Bangladesh Free Trade Union Congress, the Bangladesh Labour Federation and the Bangladesh Jatiya Sramik Federation. The Committee notes that the report sent by the above organizations is based on research carried out from May to August 2006 by the

Bangladesh Occupational Safety, Health and Environment Foundation (OSHE) and the Centre for Corporate Accountability. It addresses matters raised by the Government in its report and draws, inter alia, on interviews with inspectors and workers and on available literature.

1. *Article 10 of the Convention. Budget and number of inspectors.* According to the abovementioned organizations, the budget for labour inspection is clearly insufficient despite a recent increase. Furthermore, there are not enough inspectors in charge of enforcement to meet requirements, as many posts remain vacant and inspectors specialized in particular issues. In terms of human and material resources for the inspection of occupational safety and health, there has been no change in the last 20 years, whereas the number of registered premises has increased by 67 per cent and the number of workers in the same period by 140 per cent. Ever since a major industrial accident caused 58 deaths in a garment factory, inspectors, including dock inspectors, now inspect only garment factories.

2. *Article 7. Training of labour inspectors.* According to the abovementioned organizations, inspectors receive one month's induction training at the Industrial Relations Institute, which may be the only training they receive in the course of their career; this is inadequate in view of the great variety of industries and the production technologies used in them.

3. *Article 11. Availability of material resources and refunding of transport costs.* According to the above organizations, inspectors' offices are not well equipped, inspectors do not have access to vehicles in order to undertake inspections, expenses are paid only if the factory is within 5 kilometres of the divisional office and the process for repayment of expenses can be very long-winded. More often than not, inspectors are unable to take with them certain types of equipment for technical inspections. In some regions, where inspectors have to travel up to 200 kilometres to visit a factory, they expect employers to pay their expenses.

4. *Article 3, paragraph 1(b) and (c). Provision of technical advice to workers and employers, and improvement of labour legislation.* The above organizations regret that the technical advice provided to workers and employers is limited and there is no mechanism to ensure that such guidance, particularly on occupational safety and health, where there has been no new legislation since 1979 is presented clearly.

5. *Article 6 and Article 15(c). Probity and observance of confidentiality regarding the source of complaints.* There appears to be a climate of suspicion regarding the probity of inspectors, who are under no legal obligation to refrain from disclosing the identity of the author of a complaint or indicating that the inspection took place as a result of a complaint. Consequently, workers prefer not to report breaches of the law by the employer for fear of reprisals.

6. *Article 17. Prompt legal proceedings.* Although, under the legislation, employers who break the law may be prosecuted immediately and without previous warning, in practice it would appear that inspectors systematically give employers an opportunity to remedy matters before prosecuting. Inspectors prosecute cases themselves without any help from lawyers. However, they seldom do so because of constraints such as these and in particular when cases are adjourned time and again and courts are far away from the main office.

7. *Article 18. Adequate penalties.* According to the abovementioned report, the law provides for a maximum fine which is negligible in amount and thus too small to provide the appropriate deterrent effect required by the Convention.

The Committee trusts that the Government will not fail to send any information or comments it deems useful in reply to each of the points raised by the abovementioned organizations, together with such relevant documentation as it is able to provide.

The Committee is addressing a request directly to the Government on the application of certain provisions of the Convention.

Barbados

Labour Inspection Convention, 1947 (No. 81) (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:

The Committee notes the Government's report, which responds in part to its previous comments, and the attached observations of the Barbados Employers' Confederation (BEC) and the Congress of Trade Unions and Staff Associations of Barbados (CTUSAB). ***The Committee invites the Government to continue providing detailed information on the application of the Convention, particularly with regard to the following aspects.***

1. *Staffing and resources of the labour inspectorate.* The Committee notes that, in the view of the CTUSAB, the number of labour inspectors should be increased and they should be provided with adequate training and additional resources to allow them to do their work effectively. The BEC considers that there is a lack of inspectors to deal with the growing number of complaints. The Government emphasizes that the constantly increasing work load has not been accompanied by the increase in staffing required to handle it. ***The Committee requests the Government to indicate the measures adopted or envisaged to ensure that the number of labour inspectors is sufficient to secure the effective discharge of their duties, particularly in view of the forthcoming adoption of new legislation on occupational safety and health, which should reinforce their functions in this field (Article 10 of the Convention). It also requests the Government to continue to provide information on the measures adopted to furnish labour inspectors with the necessary transport facilities and to reimburse their travelling expenses (Article 11).***

2. *Adequate penalties.* The Committee notes the assurances given by the Government that the question of the provisions respecting penalties will be addressed in the context of the current reform of the labour legislation so as to ensure that the

penalties established for violations of the labour legislation are sufficiently dissuasive, in accordance with *Article 18* of the Convention. ***It requests the Government to indicate the progress made in the legislative reform in this connection.***

3. *Publication of an annual report.* The Committee notes that no annual report on the labour inspection services has been supplied to the ILO since the communication in 2001 of the annual reports of the Department of Labour for the years 1997, 1998 and 1999. ***The Committee requests the Government to ensure that an annual report on the inspection services is published and transmitted to the Office within the time limits set out in Article 20 of the Convention and that it contains all the required information, including statistics of occupational diseases, in accordance with Article 21(g) of the Convention.***

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

Bolivia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1973)

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

Further to its previous comments, and referring in particular to the information available to the ILO, the Committee notes with interest the launching of the multilateral technical cooperation project ILO/FORSAT, financed by the Ministry of Labour and Social Affairs of Spain and covering other countries in the region, with the objective of strengthening labour administrations. It notes that labour inspection is one of the important components of the project and that cooperation and assistance activities should be undertaken for the definition of a legal and structural framework and the determination of working methods and procedures with a view to the development of an effective inspection system. ***The Government is requested to provide detailed information in its next report on any measure adopted in the context of this project and on the results achieved in relation to the objectives established, as well as in relation to the matters raised in the Committee's previous comments.***

Part V of the report form and article 23, paragraph 2, of the ILO Constitution. Recalling the obligation to communicate to the representative organizations of employers and workers, in accordance with this article of the Constitution, copies of the information and reports communicated, particularly under article 22 of the ILO Constitution, to the Director-General of the ILO, ***the Committee would be grateful if the Government would indicate the precise reasons which might provide an explanation for the failure to comply with these provisions in the case of the present Convention.***

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1977)

The Committee notes that the Government's report received on 2 August 2005 does not reply to its comments addressed in 2004. It must therefore repeat its previous observation, which read as follows:

Also referring to its observation under Convention No. 81, the Committee notes that, owing to the economic crisis, the Government is encountering economic and financial restrictions which affect in particular the implementation of monitoring functions relating to the application of labour legislation and occupational safety standards in the agricultural sector. The Committee notes with interest, however, that despite these difficulties a pilot project has been implemented by the Ministry of Labour in the regions of Bermejo, Yacuiba, Villamontes and Riberalta and that the officials operating in these regions are doing their utmost to perform their duties in accordance with the provisions of the General Labour Act, its implementing decree and other connected standards.

The Committee also notes that the Government hopes that, when the labour inspection system is reorganized as a result of the ILO/FORSAT multilateral cooperation project, of regional scope, to strengthen the labour administrations, the functioning of this system will be able to be extended to the agricultural sector. The Committee recalls that the ratification of the present Convention implies de jure obligations whose aim is the coverage of needs specific to agricultural undertakings by the inspection services with respect to monitoring of the legislation concerning conditions of work and worker protection. ***The Government is therefore requested to take measures promptly to ensure the implementation of such obligations, without prejudice to any improvement expected from the overall reorganization of the inspection system which is under way, and to communicate to the ILO all available information requested in the report form according to the provisions of the Convention.***

The Committee also requests the Government to provide further information on the activities undertaken and the results obtained by the inspection services involved in the implementation of the abovementioned pilot project.

Part V of the report form and article 23(2) of the ILO Constitution. Recalling the obligation to communicate to representative organizations of employers and workers, under the abovementioned article of the Constitution, copies of reports and information transmitted to the ILO Director-General, particularly under article 22 of the ILO Constitution, ***the Committee would be grateful if the Government would indicate the precise reasons which might explain the failure to implement these provisions in relation to the present Convention.***

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

Burkina Faso

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (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 Government's replies to the points raised in its previous comments, which indicate that in agricultural enterprises the labour inspectorate operates with the same human and material resources and according to the same methods as in other branches of activity. In theory, this is not contrary to the prescriptions laid down in the Convention as to the general principles which should be the foundation of any labour inspection system. However, to meet the standard of effectiveness required by the ILO instruments concerning labour inspection, the Committee deems it essential for labour inspection services to be duly adapted to the specific features of each of the economic sectors covered. In this case, by taking into account the particularities of agricultural workers and agricultural enterprises, the Convention aims to ensure the necessary degree of compliance with the legislation on the working conditions of agricultural workers and their protection while engaged in their work.

An appreciation of the effectiveness of the labour inspection system in agriculture is therefore necessarily based on the knowledge of the needs in this area and on periodical updating of the relevant information. The obligation for inspection units to provide periodical reports on their activities in agricultural enterprises (*Article 25*) is specifically intended to enable the central inspection authority to follow, supervise and, if necessary, adjust their activities, as well as the inclusion of information on the items listed in *Article 27* which are specific to the agricultural sector in the general annual report on inspection activities required by *Article 26*. No such report has been provided to the ILO for around ten years and the number of agricultural enterprises liable to inspection has never been communicated. In its report of 2000 on the application of the Labour Inspection Convention, 1947 (No. 81), concerning labour inspection in industry and commerce, the Government announced the publication and communication of annual reports for the period 1995–99 without following up on it. Consequently, the Committee still lacks the data needed to make even a rough assessment of how far this Convention is applied in practice and is therefore unable to fulfil the supervisory duty vested in it. It wishes to point out to the Government that, as it stated in its General Survey of 1985 on labour inspection, the publication of an annual report is not an end in itself but gives the national authorities significant data on the application of the national labour legislation and any gaps in the legislation which may be instructive for the authorities in the future, on the one hand, and, on the other hand enables employers and workers and their organizations to react, through its publication, with a view to improving the effectiveness of inspection services (paragraph 273). The Committee recalls that, when a member State is unable to fulfil the requirements of a Convention it has ratified due to its economic situation, it may request the technical assistance of the ILO and international financial aid.

Noting that, according to the Government, the available general indicators made it possible, when formulating projects and programmes to combat child labour, to establish that this phenomenon is found mainly in the agricultural sector, including animal husbandry, and that labour inspectors are assigned an important role in this context, the Committee is of the view that the Government would be well advised to take advantage of the implementation of these projects to initiate measures to reactivate the labour inspection services in agricultural enterprises. *As a preliminary and objective assessment of the situation in this sector is highly desirable for this purpose, the Committee would be grateful if the Government would ensure that the labour inspection services have access to data on the number and geographical distribution of agricultural enterprises and workers employed therein, and to provide the ILO with any relevant information, including information on the composition and distribution of inspection staff in geographical terms and according to their fields of competence.*

The Committee hopes that the Government will communicate detailed information on how it has given effect to each of the provisions of the Convention. The Government is also asked to keep the ILO informed of any difficulties encountered and of any steps taken to overcome them.

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

Burundi

Labour Inspection Convention, 1947 (No. 81) (ratification: 1971)

The Committee takes note of the little information contained in the Government's report and further clarifications received in the ILO on 4 September 2006.

Primary duties of labour inspectorates. In its previous comments the Committee had observed that labour inspectorates' activities focused mainly on dispute resolution issues, instead of activities aiming at the enforcement function provided for by *Article 3, paragraph 1, of the Convention*. Its appreciation was based on the reports on 2000 and 2001 first-quarter labour inspection activities, showing also the performing of a huge amount of administrative tasks. The Committee notes that five out of the nine inspectors are entrusted with collective dispute resolution issues, only three others dealing with control of conditions of work, though all of them have participated in a seminar organized by the Programme for promoting social dialogue in African French-speaking countries (PRODIAF) on proceedings relating to labour dispute resolution, during the first quarter of 2006. This information confirms that labour inspection continues to be taken off its main role to be put on labour dispute resolution missions.

According to the Government, the absence of a special status, the lack of means of transport, of qualifications and of technical equipment seem to have lead to a lack of confidence from the employers towards labour inspectors.

The Committee once again stresses that it is necessary for labour inspectors to focus on the enforcement of legal provisions on labour conditions and protection of workers while engaged in their work (*Article 3, paragraph 1*) and that any further duties entrusted to them should not interfere with the effective discharge of their primary duties or prejudice in any way the authority and impartiality which are necessary in their relations with employers and workers (*paragraph 2*). It also recalls the Government's obligation of the competent authority to take measures to make available to labour inspectors the necessary means, such as transport facilities where no appropriate public transport facilities exist and reimbursement of any travelling and incidental expenses which may be necessary for the performance of their duties (*Article 11*). It expresses the hope that appropriate financial support will soon be granted through international cooperation to this end. *The Committee would be grateful if the Government would indicate any steps taken and any progress*

achieved in this regard and communicate in the nearest future any available report on labour inspection activities in industrial and commercial workplaces, concerning the application of legal provisions on conditions of work and protection of workers.

Cameroon

Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

The Committee notes the Government's report, its brief reply to the Committee's previous observation concerning comments made by the Confederation of Public Service Unions (CSP) and the General Union of Cameroon Workers (GUCW) received at the ILO in September 2004. It also takes note of the new observations sent to the ILO by the GUCW dated 30 August 2005 and 30 August 2006.

1. *Inadequate resources, ineffectiveness and deterioration of the labour inspection system.* In its comments received at the ILO on 22 September 2004, the CSP alleges that certain Articles of the Convention are not properly applied. It notes with regret that there was no cooperation whatsoever between labour inspectors, employers and workers (*Article 5 of the Convention*); inspectors' working and pay conditions made them vulnerable and exposed them to influence by employers (*Article 6*); and this is reflected, inter alia, by the non-application of *Article 13* concerning inspectors' authority to make orders for the elimination of risks to workers' health and safety. The CSP also asserts that inspections are confined to enterprises in the private sector and never give rise to the application of penalties (*Articles 16 and 17*).

The same points were made by the GUCW in an observation of 27 August 2004, which also mentioned that local offices were poorly equipped and even lacked a supply of drinking water, and that there were no means of transport (*Article 11*).

In comments of 29 May 2005, the Government replied to the observations of the abovementioned organizations, stating that it was awaiting proof of the GUCW's allegations concerning the labour inspectors' lack of authority and resources. As to the inspectors' supervisory authority, the Government indicated that the relevant text was to be submitted for examination to the Tripartite Synergy Committee for referral to the officers of the National Labour Advisory Commission, the only body with authority to issue opinions and proposals on labour legislation and regulations.

On 30 August 2005, the GUCW sent further comments to the ILO on the application of the Convention in which it referred to its previous observation and indicated that, in addition, as a result of restructuring, the Ministry of Employment, Labour and Social Insurance had been split into two ministries, with several inspectors being assigned to the new Ministry of Employment and Vocational Training, with the result that "workplace inspection had taken a punishing".

Under cover of a letter of 29 November 2005, the Government sent to the ILO the GUCW's reply regarding proof of its allegations, referring the Government to the reports of the annual conferences of officials of the central and external departments of the Ministry of Labour and Social Security.

The Committee further notes that, according to the general and legislative information sent by the Government, effect is given in law to every provision of the Convention. It notes, however, that there are no reports or extracts of reports on the practical working of the labour inspection enabling the Committee to assess its effectiveness or its weaknesses. Yet, in a direct request to the Government in 2002, the Committee noted the information that teams were to be despatched to collect reports from the departmental and provincial inspectorates and that technical assistance was to be sought from the ILO to improve skills in the collection and analysis of the statistics needed to draw up such reports. No such measures appear to have been taken and, according to the Government, it is still difficult to produce a general report on the labour inspection services.

In a new observation dated 30 August 2006, the GUCW reiterates its views on the situation of the labour inspectorate and adds that there is no longer an inspectorate for want of inspectors and resources. It again reports that some labour inspectors are subject to corruption by employers and that inspectors have no authority in the performance of their tasks.

The Committee urges the Government to take steps to ensure that an annual report on the activities of the labour inspectorate, containing all available information on the subjects listed at Article 21 of the Convention, is drawn up, published and sent by the central inspection authority to the ILO, in accordance with Article 20. It would be grateful if the Government would at once take measures to establish a method for uniform collection and processing of the relevant information and to report to the ILO all progress made towards this end.

The Government is also asked to provide information on the text concerning the powers of the labour inspectorate which, the Government says, has been submitted to the National Labour Advisory Commission, and on the outcome of the Commission's examination of the text.

2. *Collaboration between officials of the labour inspectorate and the social partners.* The Committee notes that in reply to its direct request of 2004, the Government states that collaboration between officials of the labour inspectorate and workers or their organizations (*Article 5(b)*) is regulated by Title II of the Labour Code. The Committee notes that these provisions say nothing of collaboration in labour inspection, and ***draws the Government's attention to Part II of***

Recommendation No. 81, which provides useful guidelines on the nature and form of measures that could be taken to encourage such collaboration, with employers as well as workers, in the area of occupational safety and health. It would be grateful if the Government would consider, in consultation with the employers and the workers, the possibility of implementing such measures, and if it would keep the ILO informed of the results of such collaboration.

Cape Verde

Labour Inspection Convention, 1947 (No. 81) (ratification: 1979)

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

The Committee notes the Government's report for the period ending 1 September 2005 and the elements of information that it contains in reply to its previous comments, as well as the comments made by the Commercial, Industrial and Agricultural Association of Barlavento (ACIAB), the National Union of Workers of Cape Verde – Trade Union Confederation (UNTC-CS) and the Cape Verde Confederation of Free Trade Unions (CCSL), which were forwarded by the Government. ***It requests the Government to provide detailed information in its next report on the following points.***

1. *Means of action of the labour inspectorate.* The Committee notes that, in the view of the CCSL, the labour inspectorate is not functional due to the lack of material and human resources. The low number of inspectors means that it is not possible to exercise effective supervision in all the islands of the country and travel by inspectors is infrequent due to the lack of transport facilities. In this respect, the UNTC-CS considers that the Government should allocate greater resources to ensure effective labour inspection. The Government indicates that it is planning to take measures to establish new inspection services in islands where employment has grown the most over recent years. The Committee also notes that the Government is proposing to organize the recruitment by competition of new labour inspectors and their training in the near future with the support of Brazilian cooperation. ***The Committee requests the Government to continue providing detailed information on any further measures taken to ensure that inspectors are sufficient in number to secure the effective discharge of their duties (Article 10 of the Convention), that they have the necessary material resources and transport facilities (Article 11) and receive adequate initial and further training (Article 7).***

2. *Functions and duties of inspectors.* The Committee notes the Government's indication in its report that new mediation and conciliation functions are to be attributed to labour inspectors by the draft Labour Code that is currently being adopted. It also notes that the Government plans to revise the general conditions of service of the labour inspectorate. With reference to its previous comments, ***the Committee is confident that the Government will ensure that the new functions which may be entrusted to labour inspectors are not such as to interfere with the effective discharge of their primary duties (Article 3, paragraph 2).*** Furthermore, the Committee notes the Government's assurances that the revision of the general conditions of service of the labour inspectorate will take into account the need for provisions prohibiting inspectors from revealing, even after leaving the service, any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties, in accordance with *Article 15(b)* of the Convention.

3. *Notification of cases of occupational disease.* The Committee notes the view of the ACIAB that it is important for the labour inspectorate to be notified not only of industrial accidents, but also of cases of occupational disease so that it can compile statistics on occupational risks, take preventive action and ensure the appropriate coverage of the victims. The Committee notes that, in reply to its previous comments on this subject, the Government provides assurances that account will be taken, in the context of the adoption of the new Labour Code, of the need to supplement the legislation so that it establishes the obligation to notify the labour inspectorate of cases of occupational disease, in accordance with *Article 14* of the Convention.

4. *Publication of an annual report.* The Committee notes the reports from the various inspection offices of the inspections carried out during the years 1999 to 2005, which were transmitted by the Government with its report. The Committee observes that these are reports submitted to the central inspection authority, in accordance with *Article 19* of the Convention; they cannot replace the annual report which, under the terms of *Article 20* of the Convention, has to be published by the central inspection authority and transmitted to the ILO within a reasonable period. ***With reference to the comments that it has been making for many years on this subject, the Committee trusts that the Government will take the necessary measures in the near future to ensure that an annual report on the matters set out in Article 21 of the Convention is published within the required time limits.***

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

Central African Republic

Labour Inspection Convention, 1947 (No. 81) (ratification: 1964)

Material means for labour inspection: Funding and technical assistance. The Committee notes that the Government's report contains no information on any steps taken to provide labour inspectors with the necessary means to carry out their duties. It notes once again with concern that their transport expenses are still not reimbursed by the Government, and that, due to the lack of transport facilities, labour inspectors devote most of their working time to resolving industrial disputes. ***With reference to the Government's previous report, the Committee would be grateful if the Government would indicate the steps taken, if any, to obtain the desired assistance from the ILO and from any donor country, where appropriate, in the context of international financial cooperation, to enhance the functioning of the labour inspection system.***

Colombia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

The Committee notes the Government's report on the application of the Convention for the period from 1 July 2004 to 31 August 2006, containing its replies to the Committee's previous comments and forwarding a copy of resolution No. 004283 of the Ministry of Social Protection. The Committee also notes the Government's replies received on 16 February 2006 to the comments made by the Confederation of Workers of Colombia (CTC), received by the ILO on 31 August 2005 and relating to freedom of association. The Committee refers in this respect to the Tripartite Agreement concluded by the delegation of Colombia to the 95th Session of the International Labour Conference in June 2006, the objectives of which include shedding light on violations of the freedom and life of workers and trade union leaders, giving new impetus to the ILO's principles with a view to giving effect to fundamental labour rights and affirming the implementation of ILO policies with emphasis on concerted action, social dialogue, collective bargaining and the right of association. ***The Committee expresses the firm hope that this agreement will contribute to achieving the objectives established and requests the Government to keep the ILO informed of any development in relation to the application of the Convention.***

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

Comoros

Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)

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

Referring also to its previous observation, the Committee notes that the Government reiterates its request for technical assistance with a view to strengthening the capacity of the labour administration. It also notes that the Government has communicated the observation formulated by the Union of Autonomous Workers' Organizations of Comoros (USATC) concerning the implementation of the Convention as well as the Government's reply to the issues raised.

According to the USATC, the Government is not granting the labour inspectorate the status it deserves in view of the importance of its mission. It stresses, in this regard, the need to grant a larger budget to the labour inspectorate in order to make it operational. The union also suggests that specific projects should be prepared and implemented with support from the ILO and the Regional Programme for the Promotion of Social Dialogue in French-speaking Africa (PRODIAF) in order to strengthen the human resources capacity of the labour inspectorate and social partners.

The Government recognizes the relevance of the USATC observation regarding the need to strengthen organizational capacity and the training of labour inspectors and social partners. The Committee notes the Government's hope of achieving this through technical assistance from the ILO and from PRODIAF. ***The Committee hopes that the Government has taken the necessary steps to this end and that it will provide information in its next report on the results achieved. It would also be grateful if it would gather and communicate to the ILO, as requested in its previous observation, data available on labour legislation and on human and material resources available to the labour inspectorate, and indicate the state structures and, where appropriate, private structures exercising direct competence in the field of inspection or cooperating therein.***

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

Costa Rica

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

The Committee notes the Government's report for the period ending on 31 May 2006 replying to its previous comments. It also notes the documents appended thereto. It notes the observations of the Rerum Novarum Workers' Confederation (CTRN) and the Union of Employees of the Ministry of Labour and Social Security (AFUMITRA) and their enclosures, received at the Office on 18 January 2005 and forwarded to the Government on 2 March 2005. The Committee takes note of the Government's reply to these comments and the supporting documentation, received on 19 July 2005.

The Committee observes that some of the matters raised by the above organizations were addressed in the Committee's previous observation.

1. *Articles 3, 10 and 16 of the Convention. Human resources and the labour inspectorate's duties; extent to which inspection requirements are covered.* According to the CTRN and AFUMITRA, there has been a slow deterioration in the services performed by the labour inspectorate owing to a lack of necessary resources. To make matters worse, the workload is increasing and there is a danger of the inspection service becoming paralysed as its duties are extended and diversified.

According to the above organizations, resources are too scarce to allow adequate and appropriate coverage: between 2001 and 2003, the inspectorate covered only 5.5 per cent of employers liable to inspection. Furthermore, coverage is shrinking further not only because there are more workplaces subject to inspection and more workers to be protected, but also because 75 per cent of the inspectors working in 29 of the provincial and cantonal offices spend 40 per cent of their working time on conciliation. The delegation of certain administrative duties to the regional offices and the broadening

and diversification of inspectors' skills to match the requirements of national and international law means that their responsibilities have been considerably increased without any increase in administrative staff or financial resources.

According to the above organizations, the number of inspectors fell from 105 in 1997 to 94 in 2004, and inspections from 13,000 for the period from 2000 to 2001 to less than 12,000 for the period from 2002 to 2003.

According to the Government, there are three categories of inspectors responsible for conciliation duties for the whole country except the central area, which has separate arrangements. The Government indicates that inspectors have received appropriate training in this and other fields, and sends a summary table of inspectors' training in 2004.

With regard to the increase in inspectors' duties, the Government states that it was needed for technical reasons and to improve the inspectorate's efficiency. As to the shortage of support staff, this is due to budgetary and economic restraints; other administrative departments are affected in the same way, but new posts will ultimately be created.

With regard to the strength of the inspectorate, the Government indicates that numbers have fallen owing to retirement, change of duties and transfers. However, to remedy the situation the General Labour Inspectorate intends to look into the possibility of having certain posts re-established.

2. *Article 11. Logistic and material resources for the labour inspectorate.* According to the CTRN and AFUMITRA, the means of transport available to inspectors are insufficient, and inspectors spend much of their working day travelling and have to depend on public transport. Furthermore, many of the inspectorate offices lack the minimum amenities for use; some even lack decent sanitation, and one had to be closed temporarily at the request of the Ministry of Health. Office equipment, such as computers and printers, is inadequate and often in poor condition, and the shortage affects even petty supplies (including ink).

According to the Government, of all administrative departments, the labour inspectorate is best equipped in terms of vehicles. Of the five acquired in 2004 by the Ministry, two were assigned permanently to the National Inspection Directorate. Furthermore, vehicles are available for use by inspectors on request, and are regularly made available to the regional offices. The budgetary assignment for travel underwent a substantial increase in 2005. As to the inspectorate's premises, the Government indicates that steps have been taken to rent offices in Guácimo, San Carlos and Alajuela; and the administration has supplied the regional inspection offices with computer equipment and office supplies, in so far as the budget has allowed.

3. *Article 6. Conditions of service of labour inspectors.* According to the CTRN and AFUMITRA, some measures taken by the administration have affected inspectors' motivation. The organizations cite: (a) untimely transfers, which stopped only after many complaints had been filed; (b) the elimination of the travel bonus; and (c) the elimination of a former accommodation bonus.

The Government replies that transfers are healthy and are implemented by the inspectorate with the agreement of the Ministry. Some were accepted, and others were refused. The Constitutional Court found nothing unlawful in transfers carried out to improve public service provided they caused no serious injury to inspectors.

The Government asserts that the bonuses were eliminated by a decision taken after an inquiry into criteria for the grant of bonuses which revealed that false addresses had been used. In each case, the fundamental rights of public employees laid down in the Constitution and the law were respected.

4. *Article 12. Hours of inspection visits.* According to the CTRN and AFUMITRA, the working day of labour inspectors is confined to the hours between 8 a.m. and 4 p.m. because the Ministry's service regulations were misconstrued; this prevents inspections in workplaces that operate at night. According to the Government, article 30 of the Internal Regulations of the Ministry of Labour and Social Security nevertheless allows for the working hours of inspectors to be changed on a provisional basis when special circumstances so require and provided that this creates no inconvenience for the inspector. ***With reference to its previous comments, the Committee notes the Government's information, and would be grateful if it would indicate how it provides for technical inspection of plant and machinery that is idle in workplaces that operate during the day, and for inspectors to check whether any night work is being performed unlawfully.***

5. *Article 5. Cooperation with the social partners.* According to the CTRN and AFUMITRA, the Ministry's senior management staff have no interest in the modernization of labour administration. There is delay in making the National Advisory Council operational, and the regional advisory councils have not even been established, since an amendment to the Council regulations has been suspended. According to the Government, steps have been taken to convene the members of the National Advisory Council and the abovementioned regulations ought soon to be referred for approval. The Committee notes that according to an evaluation of the Labour Inspectorate Transformation Plan 2000–05, sent by the Government, there is deadlock in a number of strategic issues such as the transfer of resources, the creation of a computerized information exchange network, participation by the social partners, reinforcement of the inspectorate's preventive and instructional duties, and the determination of priorities for inspectors. The abovementioned evaluation accordingly recommends giving each regional office a legal adviser, regionalizing the labour inspection budget, providing regional offices with computer equipment and means of transport, creating a computer network for exchanging information between the various bodies of the inspectorate and the Ministry's other departments, making the national and regional advisory councils operational, reinforcing the inspectorate's preventive and instructional duties and setting criteria for the planning of inspection activities. The Government also states that efforts to strengthen the inspectorate are

under way with support from the ILO as well as in the context of regional cooperation under the auspices of the Inter-American Development Bank (IDB), in coordination with the ILO, with a view to rational use of resources. ***The Committee requests the Government to continue to provide information on all developments and any progress in establishing an efficient inspection system, together with any relevant documents.***

6. *Articles 20 and 21. Publication and communication of an annual inspection report.* The Committee takes note of the reports on the general activities and the specific activities of the labour inspection service. It notes with interest that, as part of a bilateral technical and financial cooperation programme with Canada, launched in 2003, the National Inspection Directorate has been equipped with an automated labour inspection and management system (SAIL). By means of this system, it should be possible to set up an electronic register of inspections and of special cases so that each case can be followed up appropriately, particularly where legal bodies are involved. It should also enable the monthly reporting by provincial and regional offices to be centralized and facilitate the work of labour inspectors in establishing reports, updating information, etc. ***The Committee hopes that an annual report containing information on each of the items listed at Article 21 will shortly be published and communicated to the ILO in accordance with Article 20.***

The Committee is addressing a direct request on other matters to the Government.

Labour Inspection (Agriculture) Convention, 1969 (No. 129) ***(ratification: 1972)***

The Committee takes note of the Government's report for the period ending 31 May 2006 and the attached copy of judgements of 2003 imposing financial penalties for violation of the labour legislation. It also takes note of the comments formulated by the Confederation of Workers Rerum Nevorum (CTRN) and the Trade Union of Civil Servants of the Social Security and Labour Ministry (AFUMITRA), as well as the documents attached received by the ILO on 18 January 2005 and transmitted to the Government on 2 March 2005. The Committee notes the Government's reply to these comments and the documents attached, received by the ILO on 19 July 2005.

Since the comments from the unions concern to the same extent both this Convention and Convention No. 81, the Committee draws the Government's attention to its observation under Convention No. 81 and would be grateful if the Government would communicate any comments it may deem appropriate on the issues raised, as far as they concern labour inspection in agricultural undertakings.

Denmark

Labour Inspection (Agriculture) Convention, 1969 (No. 129) ***(ratification: 1972)***

The Committee takes note of the Government's report and the abundant documentation attached. It notes in particular with satisfaction the information that one of the awards from the European Good Practice Award 2005 was given to a Danish project about noise in agriculture and that more information about the project is available on www.stojiilandbruget.dk. It also notes that the Sector Working Environment Council issues many publications about improving health and safety in agriculture and has started many initiatives to improve health and safety conditions. The more recent initiatives are available on www.barjordtilbord.dk.

The Committee also notes with interest that the National Working Environment Authority has issued a report on the judgements regarding working environment legislation delivered in 2000 by the Danish High Court pointing out that the majority of these cases were regarding danger of accidents, for example working with dangerous machinery, defects in transport equipment and cranes, illegal handling of items, danger of falling and collision, as well as danger of explosion and fire. Information on relevant judgements by the Danish High Court for the period 2000–05 are available on the web site of the National Working Environment Authority.

Ecuador

Labour Inspection Convention, 1947 (No. 81) (ratification: 1975)

The Committee notes the Government's report for the period ending 1 September 2006, the activity report of the Ministry of Labour and Employment for the 2005–06 period, the activity report of the labour inspectorate of Pichincha for the period from 20 April 2005 to 12 April 2006, and the list of labour inspectorate staff at national level.

1. *Financial cooperation and technical assistance for the establishment of an effective labour inspection system.* In reference to its previous comments and the information available in the ILO, the Committee notes with satisfaction the successful outcome of the Government's search for financial and technical cooperation, and the country's integration into the ILO/FORSAT multilateral technical cooperation project for the strengthening of labour administrations, financed by the Ministry of Labour and Social Affairs of Spain and covering other countries in the region. It notes that labour inspection is one of the most important components of the project and that cooperation and assistance activities should be undertaken with a view to defining a legal and structural framework and determining working procedures and methods for an effective inspection system. The Committee notes with interest that an evaluation of the labour inspection services in

the cities of Quito, Guayaquil and Cuenca was carried out within the framework of the abovementioned project between September and November 2005 and that its conclusions are to be applied to inspection services throughout the country. The evaluation highlighted the shortcomings and limitations of the inspection service, notably in respect of legislation, human resources and material means.

- (i) *Part I of the report form. Legislation.* The only legislation in existence concerning labour inspection consists of six sections of the Labour Code of 1937 which relate to the attributions and responsibilities of labour inspectors, and several other provisions in the same Code on the responsibilities of labour inspectors in various domains. Hence, there is no body of regulations governing the structure, organization, attributions and functions of the labour inspection system or the status, powers and obligations of inspectors, nor any legal provisions defining breaches of the legislation relating to working conditions and the protection of workers, and the penalties applicable.
- (ii) *Article 3, paragraph 1(a), Articles 10 and 16 of the Convention. Human resources and coverage of requirements.* The number of staff is considered insufficient. Moreover, certain labour inspectors are not specifically assigned to inspection services, and also carry out other duties in different departments of the ministry. Inspection visits are not planned, and those carried out are rare and performed on a reactive basis. Not all areas of the legislation are covered by labour inspection, most notably social security, and, due to a lack of training, occupational safety and hygiene.
- (iii) *Article 11, paragraph 1(a). Working conditions of inspectors.* According to the evaluation report, the premises housing inspection services are inadequate and badly equipped, in such a way that the inspectors cannot carry out their duties or receive visitors in an appropriate manner. Moreover, computer equipment, a database and a filing system are needed.
- (iv) *Article 11, paragraph 1(b). Transport facilities.* Inadequate transport facilities mean that labour inspectors have to rely on employers or workers for means of transport when performing their professional duties.

The Committee notes that the evaluation of the labour inspection system was based on the formulation of recommendations to be implemented in the short and medium term with a view to the strengthening of the system, in accordance with the principles set forth in the Convention. A draft law on the organic structure and the functions of the new Ministry of Labour and Employment, prepared with the support of the ILO within the framework of the FORSAT project, envisaged the creation of a labour inspection directorate at national level. Although this proposal was not followed up, it served as a basis for further discussions, and the creation of a labour inspection unit detached from the mediation services is currently envisaged.

The Committee also notes with interest that within the framework of the abovementioned project, a pilot inspection plan was proposed in 2005, aimed at bringing together a group of inspectors from the inspection services of the city of Guayaquil to carry out nothing but inspection duties, while the other inspectors would continue to carry out all the functions attributed to them by the Labour Code in force. The results of such a plan could allow for it to be extended to other regions of the country.

The Committee notes with interest that the ILO subregional office currently provides technical assistance to the Ministry of Labour and Employment with a view to the reform of the Labour Code and the establishment and implementation of a national occupational safety and health system, and that, according to the Government, measures have been taken to ensure the strict application of *Articles 20 and 21* of the Convention. Information available in the ILO indicates that, within the framework of the FORSAT project, a new systematization of files and labour statistics is under way. Moreover, according to the Government, there are plans to put reports by regional labour directorates and various inspection services on the Ministry web site.

The Committee would be grateful if the Government would keep the ILO informed of any developments relating to actions taken following recommendations made by the ILO/FORSAT project and, with regard to the results of such actions, to communicate a copy of any relevant texts or documents. It requests the Government to provide a copy of the annual report on inspection activities, as soon as it is published.

2. Labour inspection and child labour. The Committee notes with interest the information available in the ILO which indicates that the number of inspectors responsible for child labour has increased. It also notes the training and awareness-raising activities in this area aimed at inspectors and other persons concerned. ***While noting that inspection visits were carried out in different areas of the country where children work, the Committee would be grateful if the Government would provide details of these inspection visits in the undertakings and activities covered by the Convention, and the results thereof.***

Egypt

Labour Inspection Convention, 1947 (No. 81) (ratification: 1956)

The Committee notes with interest the Government's report containing information in reply to its previous requests. It also notes with interest the inspection procedures manual and the statistics relating to labour inspection activities for 2005. The supplementary information communicated by the Government enables the Committee to note with interest that the provisions of the 2003 Labour Code and its implementing texts focus on the particular development of the role of the

labour inspectorate in the fields of occupational health and safety, and that the application of these provisions and texts is reflected in the statistics relating to occupational accidents and diseases which are found in the annual inspection report.

1. *Strengthening of occupational risk prevention.* The Committee notes with interest that, pursuant to sections 218 and 219 of the Labour Act, the employer is now required to organize regular medical examinations for all workers and not only for those exposed to hazards, as was the case in the former text. The Committee also notes that enterprises are now required to provide workers with training and information on the risks inherent to the activity carried out, and that they are also required to provide adequate protective equipment and to ensure that such equipment is used by workers. ***The Committee would be grateful if the Government would provide additional information on the manner in which labour inspectors are responsible, in practice, for monitoring compliance with these provisions, the purpose of which is to prevent and reduce occupational hazards.***

2. *Effective cooperation between the labour inspection services and research centres.* The Committee notes that section 1 of Decree No. 114 of 2003, establishing the rules and procedures for research and studies in the field of health, occupational safety and occupational environment safety, provides that the National Research Centre for Industrial Safety shall take into consideration the recommendations of inspectors from both the General Department of Occupational Health and Safety and the Ministry of Health. The Committee also notes with interest that the General Authority for Occupational Health and Safety has carried out studies and research on certain chemical substances that can affect workers' health. ***The Committee asks the Government to communicate to the ILO copies of any documents issued by these authorities concerning the matters covered by the Convention.***

3. The Committee notes with interest that, by virtue of Decrees Nos. 152 of 2003 and 154 of 2003, tripartite bodies responsible for health and safety issues at national, provincial and enterprise level have been created in application of the provisions of the Labour Code. ***The Government is requested to communicate copies of any documents establishing the implementation in practice of these provisions and the operation of such committees.***

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

El Salvador

Labour Inspection Convention, 1947 (No. 81) (ratification: 1995)

The Committee notes the Government's report and the handbook for labour inspectors on combating the worst forms of child labour, produced in cooperation with the ILO and the International Association of Labour Inspectors (IALI) and adapted to El Salvador. It also notes the audit of the Ministry of Labour carried out in 2002 in the context of the MATAC/ILO project, and of Executive Decree No. 53 of 5 June 1996 issuing general regulations on travel allowances.

1. *Article 12, paragraph 1(a) and (b), of the Convention. Scope of inspectors' freedom of access to workplaces.* Further to its previous comments, the Committee draws the Government's attention to paragraph 270 of its General Survey of 2005 on labour inspection, in which it sets forth the reasons for giving inspectors freedom of access to workplaces as required in Conventions Nos. 81 and 129. It noted in that paragraph that the conditions for the exercise of the right of free entry to workplaces are intended to allow inspectors to carry out inspections, where necessary and possible, to enforce the application of legal provisions relating to conditions of work. The Committee is of the view that the protection of workers and the technical requirements for inspection should be the primordial criteria for determining the appropriate timing of visits, for example to check for violations such as abusive night work conditions in a workplace officially operating during the daytime, or to carry out technical inspections requiring machinery or production processes to be stopped. ***The Committee therefore once again asks the Government to take steps to supplement the legislation so as to allow labour inspectors to enter freely, also at night, any workplaces liable to inspection and to enter by day any premises which they may have reasonable cause to believe to be liable to inspection. It hopes that the Government will provide information in its next report on any progress made in this respect.***

2. *Article 12, paragraphs 1(c)(i) and 2. Scope of labour inspectors' powers.* The Committee notes the Government's explanations regarding the meaning of section 47 of the Act on the organization and functions of the labour and social security sector. It points out, however, that this provision, under which inspections are carried out with the participation of the employer, the workers or their representatives, is still ambiguous in that it allows the employer or his representative to accompany the inspector around the workplace and identify, from among the workers interviewed, those likely to have supplied the information that gave rise to an unfavourable inspection report. This clearly impairs the freedom of movement necessary to effective inspection and involves a risk of reprisal against the workers, despite the fact that, under section 38(b) of the same Act, inspectors are free to question anyone on the premises inspected, without the presence of witnesses. The Committee further reminds the Government that, according to *Article 12, paragraph 1(b)*, of the Convention, inspectors must be allowed not to notify the employer or his representative of their presence on the occasion of an inspection visit if they consider that such notification may make the inspection less effective. Consequently, paragraph 2 of section 47 ought also to be amended in order to leave it to the inspectors' discretion to notify their presence to the employer or his representative or any other person responsible for the establishment or workplace. ***The Committee therefore once again asks the Government to take steps to bring the legislation into line with the provisions of the Convention and to provide information in its next report on any progress made in this respect, together with copies of any relevant texts.***

Labour inspection and child labour. The Committee notes with interest that the handbook on combating the worst forms of child labour designates labour inspectors as key players in this combat. **Noting the figures concerning supervision, prevention and advocacy in this area, the Committee requests the Government to supplement this information with details of actions brought by inspectors against employers found to be breaking the law on this subject, and to ensure that relevant statistics are included regularly and separately in the annual report to be published and communicated to the ILO under Article 20 and dealing with the subjects listed at Article 21.**

The Committee is addressing a request on other matters directly to the Government.

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1995)

The Committee notes the Government's report and the replies to its previous comments.

1. *Article 9, paragraph 3, Articles 10, 11 and 14, and Article 15, paragraphs 1(b) and 2, of the Convention. Human and material resources of labour inspection in agriculture.* According to the Government, the Ministry of Labour has a technical body of labour inspectors who are trained to carry out activities in the agricultural sector. These inspectors benefit on a regular basis from legal and technical training programmes with a view to carrying out their duties. **In reference to its observation under Convention No. 81, concerning the measures taken and envisaged to reinforce the human resources and improve the material means of the inspection services, the Committee asks the Government to provide detailed and statistical information on any such measures taken, in particular: (i) in terms of the number of inspectors appointed to carry out activities in the agricultural sector, including their geographical distribution; (ii) in terms of the transport facilities at their disposal; and (iii) in terms of the allocation of fuel and travel allowances to ensure the mobility which is vital to the carrying out of inspection visits in agricultural undertakings situated in isolated areas.**

The Committee also asks the Government to communicate information on the content and duration of the training given to inspectors working in the area of agriculture during the period covered by the next report, and on the number of staff concerned, and to indicate if measures are taken, if needed, and as envisaged in Article 11 of the Convention, to ensure that experts are associated in the work of labour inspection with a view to solving problems demanding technical knowledge beyond the competence of the inspectors. Please describe, if appropriate, the manner in which technical experts are associated in the work of labour inspection in agriculture.

2. *Articles 8 and 20. Observation of professional ethics by inspectors in agriculture and the obligation not to have any direct or indirect interest.* In reference to its previous observation on the issue, the Committee notes the Government's indication that no cases of corruption have been noted within the body of inspectors and that the national legislation contains, in Chapter II of section XVI of the Penal Code, a series of administrative and legal provisions applicable to public officials who commit or try to commit any abuse. The Committee also notes with interest the creation of a committee responsible for establishing the ethical principles of reference for activities performed by labour inspectors and for determining actions which are prohibited or incompatible for public officials. **The Committee would be grateful if the Government would communicate a copy of the ethical rules for public officials, mentioned in its report, and provide information on the pay scale applied to other public officials with comparable responsibilities, such as tax inspectors.**

3. *Article 6, paragraph 1(a), and Articles 16, 20 and 21. Means of enforcing legislation on the working conditions and the protection of workers, the extent of the right to enter any agricultural undertaking freely, and the confidentiality of the source of complaints.* The Committee notes with interest that the inspections carried out by inspectors in the agricultural sector include proactive activities, through scheduled visits, and reactive activities, through visits made following a complaint lodged by workers who consider their rights to have been violated. **In reference to its comments on Convention No. 81 on the subject of the extent of the inspector's right to enter freely any undertaking or workplace, the Committee asks the Government to provide any relevant information under this Convention (Article 16, paragraphs 1(a), (b) and (c)(i), and paragraph 2) and to indicate the manner in which it is ensured that the inspector treats as absolutely confidential the source of any complaint leading to a visit and gives no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint (Article 20(c)).**

4. *Article 6, paragraph 1(b), and Article 13. Provision of technical information and advice to employers and workers and collaboration between officials of the labour inspectorate in agriculture and employers and workers, or their organizations.* According to the Government, activities to disseminate and promote labour legislation amongst workers and employers have been undertaken in various areas of the country in the form of awareness-raising discussions and through the distribution of information booklets to users, the press and via the Ministry web site, etc. The Government also indicates that a guide on the rights and obligations of workers has been prepared with a view to contributing to the consolidation of a culture of work based on dialogue and consultation between the social partners. Moreover, as indicated by the Government in its report received in 2002, officials of the labour inspectorate in agriculture collaborate with employers and workers or their organizations within the Higher Labour Council. **The Committee notes with interest this information and would be grateful if the Government would supplement it with further details concerning: (i) the composition and the responsibilities of this Council; (ii) the frequency of its meetings; and (iii) the subjects linked to labour inspection in agriculture that are dealt with by the Council. The Committee also requests the Government to communicate any relevant text, activity report or other document.**

The Committee is addressing a request directly to the Government on a number of other points.

France

Labour Inspection Convention, 1947 (No. 81) (ratification: 1950)

The Committee notes that the Government's report has not been received. However, annual inspection reports for 2003 and 2004 were sent on 6 September 2005 and 24 April 2006, respectively. It notes the observations of 13 January and 22 November 2005 and 10 July 2006 by the Single National Union – Work Employment Training Integration – SNU–TEF (FSU). The Office sent the above observations to the Government on 2 March, 16 February and 4 September 2006, respectively.

In its observation of 13 January 2005, the SNU–TEF (FSU) referred to a murderous assault in the Dordogne in September 2004 against two labour inspectors in the performance of their duties, and a similar incident in Brazil. The above organization expressed its concern at the emergence of violence on the part of employers in the country. It states that there has been some delay on the Government's part in the prosecution of the above assault and that it has not reacted with operational decisions, particularly as regards strengthening the staff of the inspectorate. It also alleges glaring inadequacy in the numbers of inspectors in light of the extra work created by the complexity of the new legislation (particularly on working hours), the branch agreements and, above all, the enterprise agreements, which are often unclear, and the increase in the number of workplaces and workers covered. Furthermore, those most affected by the drop in the frequency of inspections are workers in small enterprises, where most wage earners are employed, and where the staff have no representation. This situation is impairing not only workers' rights but also the working conditions of inspection staff: an inspection only once every ten years is conducive, in the organization's view, to accidents in such enterprises. The organization expresses deep concern not only at the shortage of inspection staff, but at the consequences of the inspection campaign decided on by the Government after the State was found guilty by the Council of State of delay in responding to occupational risks arising from the use of asbestos. The campaign apparently targeted friable asbestos, was carried out over a period of 15 days and was "improvised", with no serious preparation which meant that the inspectors themselves were exposed to carcinogenic risks. The organization also takes the Government to task for failing to react to employers' publications on the Internet encouraging enterprises not to observe the legislation and encouraging certain employers' federations to refuse any supervision by labour inspectors without a prior appointment. Pointing out that the supervisory aspects are only part of the phenomenon, the SNU–TEF (FSU) also alleges breach of *Article 18 of the Convention*, in that the judicial bodies apprised of incidents in the course of inspection pronounced convictions in only 20 per cent of the cases referred by inspectors. Lastly, it is the organization's view that the legitimacy of the inspectorate's supervisory duties must be restored as a matter of urgency.

The Committee notes in this connection that, in the annual inspection report for 2004, numerous departmental directorates report difficulties in following up the results of the court proceedings effectively.

On 22 November 2005, the SNU–TEF (FSU) sent a further communication to the ILO referring to developments in the situation, linked to the Decree of 12 May 2005 establishing a central office to combat illegal work (OCLTI). The abovementioned office reports to the subdirector of the criminal police department of the *gendarmerie nationale*, overall coordination being the task of the criminal police central directorate. According to the Decree, the labour inspectorate is "associated with the activities of the office, as necessary" (section 1). The office intervenes at the request of the judicial authorities or units of the *gendarmerie*, the police, departments and branches of the other ministries concerned and social protection bodies whenever circumstances require (section 4). The office centralizes, analyses, uses and forwards to the national police and units of the *gendarmerie nationale*, and to the administrative departments and social protection bodies concerned, all information falling within its remit (section 5). According to section 6 of the Decree, the police, the *gendarmerie*, the Ministries of Labour, Health, Defence, the Economy, Equipment, Transport, and Agriculture, as well as the other administrative departments and social protection bodies concerned, are required to send to the OCLTI at the earliest possible date and in accordance with jointly established procedures, all information in their possession or of which they have knowledge concerning work-related offences, the perpetrators thereof and their accomplices. The SNU–TEF (FSU) appends to its observations a circular addressed to prefects by the Minister of Labour on 29 July 2005 on stepping up mobilization to combat illegal work, following a meeting on 27 July 2005 of the Inter-ministerial Committee for Immigration Control, chaired by the Minister of the Interior. The circular requires every department to organize, before 31 October 2005, at least one joint control operation involving all departments concerned, including the labour inspectorate, the tax and customs inspectorate, to inspect workplaces liable to be unlawfully occupied by undocumented foreigners. The circular makes it plain that "the priority given to supervising the employment of foreigners without legal status ... must not, of course, be to the detriment of other aspects of illegal work, including transnational fraud, ... or other categories of fraud (hidden work, the loan or barter of unlawful labour, breaches of the law on wages and working conditions in general), which are frequently associated with the employment of undocumented foreigners".

According to the SNU–TEF (FSU), the circular talks of "involving the labour inspectorate in crackdowns on sites where foreigners are to be identified by their appearance", following which foreigners with no work permits would be taken immediately to the border with no heed for the procedures allowing their status to be regularized or to the Labour Code, particularly section L 341-6-1, which treats undocumented workers as victims who have the entitlements of workers

employed for remuneration (wages due, severance pay). The above organization has sent the ILO press articles reporting unrest following a joint operation that led to the arrest of foreigners. It refers to comments addressed to a country by the Committee in 2005 concerning the involvement of labour inspectors in the control of unlawful work by foreigners, in which the Committee noted with satisfaction that the Government had met its commitment to take the necessary measures to transfer the control of unlawful work to a body other than the labour inspectorate, so as to enable inspectors to carry out their main duties fully, in accordance with *Article 3, paragraphs 1 and 2*, of the Convention.

Lastly, in observations sent on 10 July 2006 the SNU–TEF (FSU) reports what it sees as an aggravation of the situation: an inter-ministerial circular signed on 27 February 2006 ordering several joint operations every year. In the organization's view, the circular violates the principles on which the action of the labour inspectorate is based, its ethics and the independence which the inspectorate must enjoy in order to perform its duties and which is embodied in the Convention. It would appear that all the organizations of employees of the Minister of Labour reacted immediately to resist what they see as a series of abuses resulting in the perversion of the inspectorate's duties and to defend the culture and rights of inspectors by refusing to allow them to be associated with what they consider to be purely police operations to identify people by their appearance, with no heed for the fundamental logic of labour law, namely protection of the rights of wage earners, and in breach of *Article 17* of the Convention, which gives labour inspectors discretion as to follow-up action and of *Article 15(c)*, providing for confidentiality of the source of any complaints to the inspectorate.

The organization indicates that, at a national meeting of organizations held in Paris on 21 and 22 March 2006, 800 inspectors out of 1,800 voted in favour of a motion to reject in its entirety the current policy on the work of foreigners, and in favour of notifying a national strike.

The Committee hopes that the Government will not fail to send information replying to its observation of 2004 together with any comments it may deem useful regarding the matters raised by the SNU–TEF (FSU).

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1972)

The Committee notes the Government's detailed report received in August 2006 and the annual inspection report for 2005 containing all the information requested by virtue of *Article 27 of the Convention*. The Committee also notes the Government's reply to its previous comments, in particular on the points raised by the Association L.611-10 in a communication sent to the ILO on 20 September 2004, and the observations made by the union SNU–TEF (FSU) on 13 January 2005 and 13 July 2006, which were forwarded to the Government on 2 March 2005 and 4 September 2006, respectively.

In its observation of 13 January 2005, the SNU–TEF (FSU), as well as the Association L.611-10, which the Government states is not a trade union, referred to the assassination by a farmer in Dordogne in September 2004 of two labour inspection officials while engaged in their functions and pointed to the lack of commitment by the Government in situations in which labour inspection officials are facing difficulties. According to the union, the Government's attitude has contributed to the development of a climate of lack of respect and consideration from employers towards labour inspection officials, thereby encouraging the violation of labour laws. *Noting that many of the points raised by the union concern the application of Convention No. 81 by the Government, the Committee refers to its observation under that Convention on issues of application that are common to the two instruments, and requests the Government to supply any comments it may wish to make on the matters raised.*

With regard to issues related specifically to the application of the present Convention, the union criticizes the Government for not taking measures or issuing instructions relating to the obstacles and aggressions perpetrated against labour inspection officials while engaged in their duties. In contrast with labour inspectors in industrial and commercial establishments, labour inspectors in agriculture do not benefit from psychological and legal support structures following incidents of aggression. Moreover, the only step taken by the Ministry of Agriculture consisted of entrusting the general inspectorate with the mission of reducing inspections, particularly by the labour inspectorate for agriculture, in order to improve the experience of farmers subject to inspections. The labour inspection services in agriculture saw this step as a denial of their daily supervisory work.

The Committee however notes with interest the measures announced by the Government with a view to strengthening the authority needed by inspection officials in their relations with employers and workers in the agricultural sector.

1. *Effective cooperation of judicial authorities.* In a joint letter, the Minister of Employment, Labour and Social Cohesion, the Vice-Minister for Labour Relations and the Minister of Agriculture requested the Minister of Justice to give instructions to public prosecutors to pursue with the greatest severity cases of threats and aggression against labour inspectors. This request was followed by a letter sent by the Minister of Justice on 12 May 2005 to public prosecutors in appeal courts calling for the strict application of law, focusing systematically, where appropriate, on the aggravating circumstance of the victim being responsible for discharging a public service, with special attention to labour inspectors. The Government refers by way of illustration to the case of an employer who opposed an inspection and who was given a suspended prison sentence and a 4,000 euro fine, following the intervention of the Minister of Agriculture with the Minister of Justice.

2. *Improving security conditions for labour inspectors and controllers.* A working group has been formed to review inspection proceedings and regional meetings of labour inspectors have been organized with a view to exchanging experience of practice and finding solutions. These were followed by the adoption of practical measures: initial and continued training of labour inspection officials on the management of difficult inspections; the establishment of an immediate psychological support procedure in the case of aggression or obstacles to inspections; the strengthening of the legal protection of inspection personnel; the improved coordination of the inspections and their follow-up in order to improve relations between the administration and farmers.

3. *Improvement of the training of labour inspection officials and cooperation between the various labour inspection services.* The director of the National Institute of Labour, Employment and Vocational Training has been entrusted with the mission of reviewing the functioning and the organization of labour inspection. The mission will focus on trends and the organization of inspections, the management of conflicts and the initial and further training of labour inspection officials. According to the Government, an instruction issued by the Prime Minister on 2 January 2006 proposes closer collaboration, as an experiment, between labour inspectorates in agriculture and labour inspectorates in industry, commerce and services. ***The Committee requests the Government to supply any additional information that it considers useful on the matters raised by the organization in its successive comments.***

Moreover, the Committee notes the following information provided by the Government relating to the resources and activities of the labour inspectorate over the past two years.

4. *Labour inspection staff in agriculture.* The Committee notes with interest the information concerning the ratio of the number of labour inspection officials compared to the number of agricultural undertakings liable to inspection and the number and categories of workers covered in terms of annual working time. It also notes with interest that for 2005, the budgetary allocations covered 227 labour inspectors and 149 labour controllers. ***It would be grateful if the Government would continue providing information on the strengthening of the human resources of the labour inspectorate and indicate the enforcement activities relating to working conditions and the protection of workers in comparison to the other activities entrusted to labour inspection officials.***

5. *Importance of inspections of illegal employment in the work of labour inspection.* The Committee notes that the large proportion of inspections covering illegal employment (41 per cent of all inspections in 2005) reflects the fact that this is considered by the Government to be a priority issue. However, these controls are also intended to verify conditions of work of workers (wages, leave, hours of work, accommodation, etc.). The Committee notes that the observation of the SNU–TEF (FSU), received by the ILO on 13 July 2006 and forwarded to the Government on 4 September 2006, raises the issue of the incompatibility of this activity with the mission of protecting the conditions of work of all workers without consideration of the question of the legality of their employment relationship. ***The Committee would be grateful if the Government would provide information on how it is planned, where appropriate, to respond to the concerns expressed by the union as to the role of labour inspection in the field of protecting the conditions of work of foreign workers who are illegally resident in the country.***

French Polynesia

Labour Inspection Convention, 1947 (No. 81)

The Committee notes the detailed information provided by the Government in reply to its previous comments, and the annual labour inspectorate report for 2005. The Committee notes that Decree No. 2005-1688 of 26 December 2005 concerning, in particular, the arrangements for the transfer of the labour inspection service to French Polynesia under the Statute of Autonomy, had not yet come into force by the date of issue of the report. According to the Government, the labour inspection service is still governed by Agreement No. 82-04 of 2 June 2004, signed by the French State and the Government of French Polynesia, under which the material functioning of the labour inspection service and the management of its staff remains within the competence of the High Commission of the Republic. ***The Committee asks the Government to provide, in its next report, information on any developments in respect of the permanent and effective transfer of the labour inspection service and the resources necessary for it to function, in accordance with Organic Act No. 2004-192 of 27 February 2004 issuing the Statute of Autonomy of French Polynesia, and on the response to concerns expressed by the social partners regarding the impact of this transfer on the number and qualifications of inspection staff.***

While noting with interest the guidelines for achieving progress, as defined by the central authority in the 2002–03 activity report, and the tangible improvements that have resulted there from in respect of the functioning of the labour inspection service, the Committee asks the Government to provide additional information on the following points.

1. *Article 3, paragraphs 1(a) and 2, of the Convention. Action against illegal employment, and monitoring of legislation relating to conditions of work and the protection of workers.* While noting that inspection activities targeting undeclared labour are also an opportunity to apply the regulations relating to conditions of work and the protection of workers, the Committee notes that the number of reports of violations drawn up in 2005 was the same for violations in respect of illegal work as for violations concerning hygiene and safety. ***The Committee would be grateful if the Government would communicate particulars on the occurrence of each of these types of violation in relation to branch of activity, and on the administrative and penal action taken as a consequence of the reports of violations on each of***

the issues covered (in particular, illegal work, hygiene and security, occupational medicine, wages, hours of work and weekly rest). The Committee also requests the Government to indicate the manner in which it is ensured that illegal workers are covered by the rights resulting from their labour relationship.

2. Articles 5, 11, 14 and 21(f) and (g). *Effective cooperation between labour inspection services and other government services.* The Committee notes with interest that, in accordance with the guidelines for progress defined in the 2002–03 activity report, relations between the labour inspection service and the supervisory service of the Social Security Fund (CPS) have developed and become better established notably through joint monitoring activities, a significant increase in the recording of cases of occupational diseases, and an improvement in the collection and processing of statistics on industrial accidents and occupational diseases. *The Committee would be grateful if the Government would continue communicating information on the development of relations with the other government services and on the impact of such relations on the functioning of the labour inspection system.*

3. Article 3, paragraphs 1 and 2, and Articles 9, 10, 11, 15 and 16. *Adequacy of human resources and conditions of work.* The Committee notes with interest that the number of inspection staff has risen, thanks to the addition of two labour controllers. These labour controllers were trained by the labour inspection service and then received an additional four months of training in metropolitan France at the National Training Institute. The Committee notes that the objective, set in terms of the guidelines for progress determined in 2004, was eight supervisory officials (two inspectors and six controllers), to carry out the effective supervision of 10 per cent of the undertakings liable to inspection. *The Committee requests the Government to keep the ILO informed of any developments in this regard and to indicate whether the post envisaged for a medical inspector has finally been filled and whether labour inspectors have been relieved of their conciliation duties in individual disputes so that they can, as explained in the report, devote themselves more fully to supervisory duties.*

4. Article 16. *Preventive control through specific activities.* The Committee notes with interest the priority given by labour inspectors to the supervision of enterprises involved in construction and public works, in response to the very high rate of occupational accidents in this sector. The Committee hopes that this supervision is taken as an opportunity for inspectors to develop a preventive culture, not only through dissuasive legal proceedings, but also through the provision of information and technical advice to the employers and workers concerned on the most effective ways to observe the legal provisions and technical requirements that ensure satisfactory working conditions from the point of view of safety. *The Government is asked to communicate information on the implementation, the results and the continuation of the supervision in question and to keep the ILO informed of any other initiatives to direct labour inspection activities towards targeted establishments or legislative fields.*

5. Articles 14, 17, 18, 20 and 21. *Statistics and evaluation of the labour inspection system.* The Committee notes with interest that the information collection system has been completely revised since 2005, and that, according to the Government, the labour inspection service is now in possession of an invaluable tool which can be used by the central authority to evaluate the level of application of labour legislation. *The Committee hopes that these improvements will soon lead to the publication, and communication to the ILO, on a regular basis, of an annual report on the activities of the inspection service and the results thereof, in a manner inspired by Part IV of Labour Inspection Recommendation, 1947 (No. 81).*

Labour Inspection (Agriculture) Convention, 1969 (No. 129)

Referring also to its observation concerning Convention No. 81, the Committee notes with satisfaction that, further to its numerous requests, the Government has taken the necessary measures to ensure that information on inspection service activities in the agricultural sector appears separately in the annual activity report that also covers industrial and commercial establishments.

The Committee is addressing a direct request to the Government concerning a number of points.

Guadeloupe

Labour Inspection (Agriculture) Convention, 1969 (No. 129)

The Committee notes the Government's report and the persistent difficulties in making the necessary distinction between the activities carried out by labour inspectors in the agricultural sector and those carried out in other sectors of activity. The Committee hopes that this distinction will soon be made, particularly in order to determine the fields in which special efforts are required to improve the working conditions and the protection of workers who are employed in agricultural undertakings and who face specific difficulties.

Articles 11 and 19 of the Convention. *Collaboration of experts in the work of labour inspection in agriculture.* The Committee is interested to note that the use of pesticides is the subject of in-depth investigations and research, particularly in the banana industry. *It asks the Government to provide details on the reasons for such investigations and research, together with information on the steps taken to reduce, and eliminate, risks to the health and safety of workers on banana plantations.*

The Committee is addressing a request directly to the Government on a number of other points.

Réunion

Labour Inspection Convention, 1947 (No. 81)

Publication of an annual labour inspection report. With reference to its previous comments, the Committee notes that, although detailed information on inspection activities was provided by the Government in its report, an annual report is still not published, as required by Article 20 of the Convention. ***It would be grateful if the Government would take measures for this purpose so that information on the operation of the labour inspection system and its results are brought to the knowledge of the social partners and to any interested public or private body or institution so as to elicit their comments on the means of improving its effectiveness.***

Using statistics of employment accidents and cases of occupational disease for prevention purposes. Noting with interest that statistics of employment accidents and occupational diseases are analysed and are the subject of relevant comments, the Committee notes that no reference is made to the manner in which it is envisaged reducing their frequency, particularly in activities identified as having a high risk potential. ***The Government is requested to provide information in this respect.***

Labour Inspection (Agriculture) Convention, 1969 (No. 129)

Reporting obligations under the Convention

(a) *Government's report on the application of the Convention.* (article 22 of the ILO Constitution). The Committee notes the Government's repeated statement that for all reports concerning the application of this Convention, labour inspectors in the overseas departments have the same duties as those in metropolitan France and that they are also responsible for the enforcement of all labour law in agriculture. It therefore refers the Committee, to its report on Convention No. 81 concerning labour inspection in industry and commerce. ***The Committee reminds the Government of its obligations under Article 22 of the ILO Constitution and would be grateful, if in its next report, it would provide the information required by parts II, III, IV and V of the report form for the Convention.***

(b) *Articles 26 and 27 of the Convention.* *Annual inspection report concerning agricultural undertakings.* Further to its previous comments in which it drew the Government's attention to the need for measures leading to the publication and communication to the ILO, pursuant to Article 26 of the Convention of an annual report on inspections carried out in agricultural undertakings responding to each of the items listed in Article 27, the Committee notes that these provisions have still not been put into effect. The Committee is therefore unable to make any evaluation at all of the extent to which the Convention is applied. ***The Government is therefore asked to take the requisite step as soon as possible and to notify them at once to the ILO.***

Haiti

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

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

With reference to its previous comments, the Committee takes due note of the Government's assurances that it will soon provide a detailed report on the application of the Convention. It notes the appointment of a new coordinator of regional labour inspection offices, as part of a series of measures to re-establish the inspection services throughout the country. ***The Committee requests the Government to describe the progress achieved in this respect in its next report, providing replies that are as detailed as possible to the questions contained in the report form approved by the Governing Body of the ILO.***

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

Honduras

Labour Inspection Convention, 1947 (No. 81) (ratification: 1983)

The Committee notes the Government's report containing replies to its previous comments, the documents attached thereto and the observation by the Private Enterprise Council of Honduras (COHEP).

While endorsing the information sent by the Government, COHEP indicates with reference to the direct request of 2004 that, pursuant to article 16(2) of the national Constitution, international agreements ratified by Honduras form part of domestic law as soon as they enter into force, and prevail in the event of inconsistency with domestic law.

1. *Articles 7, 10 and 11 of the Convention.* *Strengthening of the labour inspection system; financial resources and transport facilities for the labour inspectorate.* Further to its previous comments, the Committee notes that the draft Basic Act of the Ministry of Labour and Social Security has not been adopted. It notes with interest the actions implemented as part of the project to strengthen labour rights in Central America ("Centroamérica cumple y gana" 2004–06), and particularly the establishment of an electronic system for processing information on labour inspections, shortly to be extended to several regional offices, the provision of computers and other equipment for the inspection services, training

for inspection staff, surveys of employers and workers on the role and credibility of the labour inspectorate, the creation of a mobile inspection unit in San Pedro de Sula, and the preparation of a handbook on inspection procedures. *The Committee would be grateful if the Government would continue to provide information on progress made in implementing the abovementioned project, and to provide copies of any relevant texts and, if appropriate, the amended Labour Code and the Basic Act of the Ministry of Labour and Social Security as soon as they are adopted.*

The Committee notes with concern that neither the central nor the regional offices of the labour inspectorate have the financial resources to cover duty travel for labour inspectors. The Committee cannot overemphasize the social and economic role played by the labour inspectorate and the need for inspectors to be given the necessary means to carry out their duties, particularly transport facilities to enable them to visit workplaces with sufficient frequency. *It hopes that the Government will do its utmost to ensure that, in determining the share of the budget allocated to the working of the labour inspectorate, account is taken of what are obvious needs of the inspectorate, and the requirements of the Convention. The Committee requests the Government to take concrete measures to this end and to provide information on them and on their results.*

2. Articles 6 and 15(a). Conditions of service for labour inspectors and prohibition from any interest in undertakings under their supervision. *With reference to its previous comments on the need to ensure that the conditions of service of inspection staff are such as to ensure that they are independent of all improper external influences (Article 6) and to prohibit labour inspectors from having any direct or indirect interest in undertakings under their supervision (Article 15(a)), the Committee again asks the Government to ensure that relevant legal provisions are shortly adopted and to keep the Office informed of any progress in this regard.*

3. Articles 20 and 21. Publication and communication of an annual inspection report. *The Committee hopes that the implementation of the electronic system for processing the labour inspectorate's cases will facilitate the publication and communication to the ILO by the central inspection authority of an annual report on the work of the inspection services under its control, in the form and within the time limits prescribed by Article 20, and containing the information required at items (a) to (g) of Article 21.*

4. Labour inspection and child labour. The Committee notes that inspectors specializing in child labour operate in Tegucigalpa and San Pedro de Sula. However, according to the Government, owing to budgetary limitations there will not be specialized staff in the other offices. *The Committee requests the Government to explain why it was decided to appoint inspectors to these locations, and to provide information on the results of their activities in terms of inspections, penalties imposed, and the provision of advice and information on the matter to employers and workers. Until financial circumstances enable labour inspectors to be appointed to the other offices, it requests the Government to ensure that inspections targeting breaches of the relevant legislation are also carried out by non-specialized labour inspectors, in order to contain child labour as far as possible.*

The Committee is addressing a request concerning other matters directly to the Government.

Kenya

Labour Inspection Convention, 1947 (No. 81) (ratification: 1964)

The Committee notes the Government's report, the information in reply to its previous comments, the recently adopted legislative texts on working conditions and the annual reports for 2004 of the Labour Department and the occupational health and safety services as well as of the Labour Department for 2005, containing information and statistics on the labour inspection activities along with their results.

1. *Availability of resources and efficiency of labour inspection activities.* The Committee notes with interest that the equipment provided to the Ministry of Labour under the project on Strengthening Labour Relations in East Africa (SLAREA) by the acquisition of nine motorcycles, 12 computers, six printers, three fax machines and a photocopier have improved substantially the working environment of the inspection services. According to the Government, the motorcycles in particular were very useful for carrying out follow-up visits following complaints on child labour, while the office equipment (computers, printers and fax machines) have helped the provincial labour offices in preparing periodic inspection reports, management of correspondence related to contraventions and exchange of information with the Labour Department. In addition, the modern, multi-function photocopier machine installed at the head office has reduced costs in production of print work, especially inspection forms.

The Government indicates, furthermore, that the trainings conducted have also enhanced the level of awareness of inspectorate staff, thus improving their credibility.

Although these improvements appear to respond to financial concerns expressed in the abovementioned annual reports, they do so only partially and provisionally. For optimum use to be made, they must be reinforced by measures to make them permanent along with making resources available to the labour inspectorate to allow it to develop on the basis of needs. The establishment and input for an operational fund for maintaining road vehicles and office equipment and the acquisition of consumables (fuel, paper, ink cartridges, etc.) is highly desirable. Similarly, in order to strengthen the credibility of the labour inspectorate in general, measures to improve the status and conditions of service of labour inspectorate staff should be taken in order to attract and retain qualified and sufficiently motivated staff, shielded from any

undue external influences. The implementation of such measures necessarily entails cooperation at the highest level between the labour inspection authorities and the political and financial decision-makers so that the budget allocated to labour inspection is fixed on the basis of the socio-economic objectives assigned to it, taking account of the extent and economic field to be covered, resources already available, and also, especially, the findings and needs shown in annual reports. ***The Committee trusts that the Government will soon be in a position to inform the Office of any measures taken or envisaged in this regard, as well as any difficulty encountered.***

2. *Labour inspection and child labour.* The Committee notes with interest the establishment of a national databank on child labour accessible to all interested persons. According to the Government, 1,500 children have already been withdrawn from the labour market in eight districts and the issue of child labour has been incorporated into the development plan on economic recovery strategy for wealth and employment creation. The Committee notes with interest that the Government has undertaken to eradicate child labour and the employment of young persons in dangerous work by radical measures, such as schooling, readmission to school and the extension of the legal period of compulsory, free schooling, with efforts being directed particularly towards the identification of child heads of family and the implementation for them of measures on health, well-being, education and training, in both urban and rural areas.

The increase in unemployment of young people (16–39 years) during the economic depression, exacerbated by the lack of qualifications, resources and access to loans, has resulted, according to the Government, in turning some of these people to delinquency, begging and drugs. To remedy this situation, the Government states it has initiated collaboration with other actors and various programmes in the framework of the strategic plan, such as the creation of funds for the integration of young people, the promotion of self-employed work and other measures aimed at preparation for the move from school to work, vocational guidance, etc., and the supply of counselling and advice for running businesses.

The Government also indicates in its report that the Child Labour Division should, in the next financial year, receive resources to sustain its services beyond the Time-bound Programme. ***The Committee would be grateful if the Government could indicate the role played by the labour inspectorate in carrying out this programme and could supply information on the human, material and logistical resources made available for this purpose; the actions the labour inspectorate has conducted in this framework and the results; and the difficulties encountered.***

3. *Labour inspection and supervision of working conditions.* Referring to its previous comments in which the Committee noted that many jobs had been created in the export processing zones (EPZs) and requested information on the real scope of labour inspectors' powers in establishments in these zones, the Committee notes that, while the Labour Department is not barred from carrying out inspections, establishments in the EPZs are nevertheless exempt, under Ministerial Order Legal Notice No. 227/1990, from the application of the provisions of the Factories and Other Places of Work Act (CAP 514). ***Noting furthermore that enterprises in the EPZs are individually approaching the enforcing authority in pursuit of compliance certificates with the safety and health legislative provisions, the Committee requests the Government to keep the ILO informed of progress in the project to repeal the abovementioned Legal Notice No. 227/1990 and, in addition, to supply details and clarification on the fields of competence of the labour inspectorate in enterprises in the EPZs and the scope of the powers exercised in practice there by labour inspectors and to supply a copy of any text governing the working conditions and protection of workers employed there.***

The Committee notes that, according to Legal Notice No. 31 of 2004 issuing rules on the Factories and Other Places of Work Act, employers are compelled to establish a safety and health committee at any factory or workplace which regularly employs 20 or more workers. ***The Committee requests the Government to indicate the line of division between the responsibilities of the labour officers and of the safety and health committees concerning labour inspection, in regard to the exercise of powers of examination and follow-up of contraventions as provided in Articles 12, 13 and 17 of the Convention.***

The Committee also requests the Government to supply information on the practical scope of this rule, to specify whether it is intended or envisaged to subject employers operating in the EPZs to a requirement to establish safety committees and, if so, to supply copies of the relevant texts.

4. *Activities and results of the labour inspection services.* The Committee notes with interest the progress made in the presentation and analysis of information and statistics on inspection activities and their results by the Labour Department and the Directorate of Occupational Health and Safety Services. The Committee notes that, whereas the report concerning inspection on occupational health and safety contains figures relating to the establishments liable to inspection, information of this type is lacking in the report concerning the inspection of general labour conditions. It seems, in fact, that a considerable proportion of inspection activities for the latter focus on labour conflicts and their outcome. According to the Labour Department's annual report, strikes and social conflict are most often unleashed through failure by the employers to fulfil their obligations in regard to payment of wages, dismissal conditions, employment conditions and wage conditions, and recognition of trade union rights in particular. The occupational health and safety inspection shows that in 2004, out of 2,382 workplaces inspected, out of which 751 were visited more than once, only one prohibition notice was issued, 41 improvements notices were served and some 30 were subject to legal proceedings. Yet, over the same period, 1,387 occupational accidents were reported, including 95 fatal accidents; according to the report, these figures reflect the situation only partially, and the number of victims is not given. The annual reports of the two competent administrations reveal the ineffectual nature of an essentially educational and teaching approach by the inspectorate and

suggest, for greater efficiency, that the repressive function of supervising the relevant legislation should be given greater importance.

The occupational accident statistics show that no investigation has been carried out in the central region following 85 occupational accidents, including one fatal, or in the eastern region where 26 accidents were reported, including 19 fatal accidents, or again in the western region, despite there being 98 accidents, including four fatal ones. It is noted, furthermore, that 19 investigations were held on 103 accidents, including 19 fatal accidents in Nairobi, 13 for 132 accidents, including eight fatal ones in the Rift Valley, and 15 for 126 accidents, including 42 fatal accidents in the coast region. ***The Committee would be grateful if the Government would indicate the reasons for the disparity between the large number of accidents, including fatal ones, and the number of investigations conducted to establish their cause. It also requests the Government to indicate the measures taken or envisaged, on the one hand, to identify high-risk occupations and enterprises and, on the other hand, to carry out supervision of legal provisions relating to occupational health and security in them.***

The Committee also requests the Government to communicate information on the follow-up given by the central inspection authority and by the other competent authorities to the findings and recommendations contained in the annual labour inspection reports.

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1979)

The Committee notes the Government's succinct report, the information communicated in response to its previous comments, and the annual report of the Labour Department for the year 2005. ***Referring also to its observation under Convention No. 81, the Committee asks the Government to provide, in its report on the present Convention, the information requested in that observation, insofar as it specifically concerns labour inspection in agricultural undertakings, in respect of: (i) the amount of the budget allocated to the functioning of the inspection service; (ii) measures aimed at reducing the phenomenon of child labour and the results obtained in this respect; (iii) the scope of the powers of labour inspectors in free agricultural enterprises; and (iv) measures of a legislative or practical nature taken to ensure the inspection of the safety and health conditions of the persons living on such farms.***

1. *Inspectors to ensure the implementation of national legislation.* The Committee notes the issue of legal notices relating to minimum wages for workers in the agriculture sector, effective in 2003, 2004 and 2005, and the information indicating that new draft labour law bills in other areas were discussed, in November 2005, at a workshop attended by members of the Labour Advisory Board, national consultants on draft labour law bills, rules and regulations, and ILO representatives. ***The Committee would be grateful if the Government would communicate the abovementioned legal notices, indicate the manner in which the enforcement of such provisions is ensured, and keep the ILO informed of any changes in the legislative process insofar as it concerns issues covered by the Convention.***

2. *Articles 14 and 15 of the Convention. Adequate means to ensure the discharge of duties.* In particular reference to its observation concerning the application of Convention No. 81 and to its previous comments relating to labour inspection in agriculture, the Committee notes that the annual activity report for 2005 indicates a persistent lack of inspection personnel and the inadequacy of means of transport, which constitute a major obstacle not only to the discharge of inspection duties, but also to the verification of the measures ordered by the courts in the case of violations referred to them by inspectors. ***The Committee emphasizes the vital importance of providing labour inspectors with appropriate means of transport so as to enable them to perform their duties in agricultural undertakings, given the distance of such undertakings from urban areas and public transport networks, and urges the Government to take steps to identify needs in this area and to bring them to the attention of the financial authorities, so that such needs, which are vital to the implementation of the Convention, can be progressively fulfilled. The Committee asks the Government to keep the ILO informed of any developments in this regard.***

3. *Difficulties in fulfilling reporting obligations.* The Committee notes that the Government is not yet in a position to ensure the consolidation of different pieces of information on labour inspection activities in the agriculture sector. It notes, however, the Government's intention to submit a request for ILO technical assistance with a view to restructuring the labour inspection system; such assistance will allow for the improvement of the procedure for managing the statistical information required under the present Convention. The Committee emphasizes, once again, the importance at national level of a separate evaluation of the functioning of the labour inspection system in agriculture, since this system requires specific means and a specific strategy due to the nature of the activities covered, the human component and the geographical configuration of the undertakings, and the specific occupational risks present. The regular consolidation of information on labour inspection activities in agriculture is an indispensable tool for assessing the level of application of the relevant legislation and for determining the means necessary for its improvement. The purpose of publishing this information is to invite the social partners and any other body or agency concerned, to make constructive proposals. ***The Committee therefore strongly hopes that the Government will formalize, as soon as possible, its request for ILO technical assistance and that it will ensure that one of the components of such assistance will concern the means by which to fulfil its obligations under Articles 26 and 27 of the Convention.***

Republic of Korea

Labour Inspection Convention, 1947 (No. 81) (ratification: 1992)

The Committee takes note of the Government's report containing answers to its previous requests, and particularly to the matters raised by the Korea Employers Federation (KEF) and the Federation of Korean Trade Unions (FKTU) which were discussed by the Committee on the Application of Standards of the International Labour Conference (ILC) (session of June 2004).

1. *Article 3, paragraph 1(b), of the Convention. Supply of information and advice to employers and workers* The Committee notes with satisfaction that in response to the request of the Conference Committee on the Application of Standards, training programmes were conducted in 2005 for labour inspectors, in particular in the Korea Labour Education Institute, on the law governing individual labour relations, collective industrial relations, methods of investigation and the prevention of labour disputes. It also notes that training courses on labour law are operating on the Internet and that labour inspectors responsible for industrial safety and health are appointed only on completion of training in industrial safety and receive refresher training every year.

2. *Article 5(b). Collaboration between the labour inspectorate and employers and workers.* In earlier comments, noting the KEF's observations on the need for in-depth discussion, coordination and cooperation in the Industrial Safety and Health Policy Deliberation Committee (ISHPDC), the Committee asked the Government for further information regarding the work of the ISHPDC. The Committee notes with interest that, in response, the Government indicates that, during the period covered by its report, the work of this committee covered mid- and long-term basic plans on industrial accident prevention, a bill to revise the Industrial Safety and Health Act, a revision of legal provisions with a view to ensuring more efficient operation of the ISHPDC and more professional deliberation. The Government also indicates that special subcommittees were established by sector and that a legal ground was newly established to hear opinions from experts during discussion at the ISHPDC.

3. *Article 8. Proportion of women in the staff of the labour inspectorate.* The Committee notes that the Government plans to take steps to increase the recruitment of women labour inspectors in response to the increase in the participation rate of women. It notes that women accounted for 12 per cent of the total inspectorate staff in 2001, and 17.6 per cent in 2005. ***The Committee would be grateful if the Government would provide further information indicating the distribution by sex and by branch of activity of workers covered by the Convention, and to report to the ILO any changes in the inspectorate staff, with a breakdown by sex and by grade.***

The Committee is addressing a request regarding other matters directly to the Government.

Labour Administration Convention, 1978 (No. 150) (ratification: 1997)

The Committee notes with satisfaction the information and documents provided by the Government in reply to its previous comments and reporting:

- (1) the extension in law and practice of the functions of the labour administration system, such as the organization and financing of training, with the support of local governments, awareness raising on the value for self-employed workers, such as farmers and fishermen, to take out unemployment insurance on a voluntary basis (*Article 7 of the Convention*);
- (2) the substantial increase (from 0.5 per cent to 3.9 per cent) of the national budget allocated to the labour administration system during the period 1999–2005. The Committee notes in this respect the analysis of the financial situation of the Ministry of Labour (MOL) and the utilization of resources to improve the employment and training situation, collaboration with the social partners and the prevention of employment accidents. In particular, the Committee notes with interest the information on the allocation of resources between the various programmes: employment insurance covering unemployment benefit; protection of wages; and the promotion of employment for the disabled.

Noting that, although the Government considers the amount of the budget to be insufficient to perform the duties of the labour administration satisfactorily, its proportion of the national budget is nevertheless reasonable, ***the Committee requests the Government to continue providing information on developments in the efforts made to improve the application of the Convention.***

Noting that, in the view of the Government, workers' and employers' organizations should send their comments on the report directly to the Office, ***the Committee requests the Government to indicate any observations made by employers' and workers' organizations in the tripartite bodies of the labour administration or, where appropriate, in any other context on the effect given in practice to the provisions of the Convention or on the application of legislative or other measures which give effect to the Convention. Where appropriate, please provide any comment that the Government considers useful in relation to such observations.***

The Committee is addressing a request directly to the Government on other matters.

Labour Statistics Convention, 1985 (No. 160) (ratification: 1997)

The Committee notes the Government's report for the period ending 1 June 2005 and the replies to its previous comments, including the matters raised in the observations made by the Korea Confederation of Trade Unions (KCTU) on the application of the Convention.

1. *Articles 1, 7 and 8 of the Convention. Inadequate coverage of statistics.* The Committee notes, according to the Government's indication in reply to the observation by the KCTU on the inadequate coverage of statistics in relation to all categories of workers, that, since 2001, all regular and non-regular wage earners, regardless of their occupation, are covered by a national survey carried out by the National Statistical Office (NSO) as a supplement to the survey of the economically active population.

With regard to statistics of non-regular workers, the Government indicates that, in 2001, the Tripartite Commission set up a Special Committee on Measures for Non-regular Workers. The Special Committee requested the NSO to conduct a supplementary survey on labour conditions for this category of workers, which is now carried out on an annual basis.

2. *Article 3. Regular consultation of workers' organizations in the compilation of statistics.* According to the Government, the KCTU has been a member of the Subcommittee on Social Statistics since 1999 and has participated as a member of the Committee for Statistics since 2005. These bodies are consulted in the process of developing and improving labour statistics.

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

Kuwait

Labour Inspection Convention, 1947 (No. 81) (ratification: 1964)

The Committee notes the Government's report containing information in reply to its previous comments, as well as the attached supporting documents. In particular, it notes with satisfaction the statistical report for 2004 supplying full data on the labour inspection activities concerning migrant workers in the private sector, along with an analysis by employment branch of the results. ***The Committee would be grateful if the Government would specify whether this report was published as required under Article 20 of the Convention and would be grateful if it would supply a copy of any comments made by the occupational organizations on the matters covered.***

1. *Presentation of industrial accident statistics and prevention.* The Committee notes with satisfaction the breakdown of data on the number of industrial accidents, their causes, the nature of injuries sustained, and their consequences regarding capacity for work, by employment branch and by region according to the period of the year (*Article 21(f)*). It notes with concern, however, the large number of industrial accidents reported, in particular in the building and construction industry (871), the commerce, hotel and catering (695) and the processing industries (327) during the period covered. These accidents resulted in, respectively for each of these branches of employment, permanent incapacity for work for 67 workers, 625 workers and 244 workers. Analysis of the causes of the accidents highlights, for the most part, personal falls (277 in building and construction, 240 in the commerce, catering and hotel trade, and 74 in the processing industries), falling objects (242 in building and construction, 122 in the commerce, hotel and catering industry, and 94 in the processing industries), as well as accidents caused by machines and plant (225, 138 and 94 respectively). According to the statistics of the labour inspection on safety and health at work, supplied by the Government for 2003, only two contraventions to sections 15, 18, 19 and 20 of Ministerial Order No. 114/1996 on the hazards of falling were registered during a first visit to the construction sector and that this figure was reduced to zero during the inspection to check compliance. In the commerce, hotel and catering sector, the number of violations to the relevant legislation was reduced from 111 on the first visit to 13 on the follow-up visit, but the number of 277 falls in the first sector and 122 in the second, during the following year should make the central inspection authority question the efficiency of inspections regarding prevention of industrial accidents. In particular, the authority should envisage laying down measures, first, to enhance the competence of inspectors responsible for health and safety at work and, secondly, to arouse the awareness of employers in the sectors most affected to the highest risks and the means of avoiding them or at least reducing them to a reasonable level. In several countries, further to the provisions by the inspectors of technical counselling and advice, the increase of social insurance subscriptions for employers, on the basis of the number and seriousness of industrial accidents linked to neglect of safety measures required by legislation, has proved effective in this respect.

The Committee notes that the compilation of statistics provides no information on penal or administrative sanctions applied to employers in violation of the relevant legal provisions. The repressive role of the labour inspection is nevertheless fundamental in this regard when measures of an educational nature remain ineffectual. Appropriate publicized sanctions have made it possible in many countries to arouse consciences to the need to comply with prescriptions on safety and health at work. In Chapter III of its 2006 General Survey on labour inspection, the Committee describes the various aspects of the repressive role of this institution. ***It hopes that the Government will find useful information therein and will be able to supply in its next report information showing a positive evolution on the subject and that statistics indicating the translation into practice of this evolution will be included in the annual inspection report.***

2. *Inadequacy of inspection activities in regard to general labour conditions.* With regard to violations of legislation on general labour conditions such as hours of work, payment of wages, holidays, child labour, the right to breastfeed and to maternity leave, and workers' living conditions, the compilation contains only a few indications which are insignificant in regard to the population covered.

In contrast, the Committee notes once again a plethora of extremely detailed information on supervisory activities and their results regarding labour permits, permits to import labour and movements of the imported labour force, showing the violations committed by workers and the sanctions applied to them.

In 2004, they included:

- 4,186 violations of legislation regarding registration of labour;
- 1,344 violations of legislation relating to clocking in and out;
- 3,082 violations of employment under guarantee of a third employer; and only
- one violation to legislation on employment of young persons;
- no violations on maternity leave; and
- no violations of the obligation to pay wages.

Analysis of violations by branch of employment reveals, on page 211 of the compilation of statistics for 2004, that in commerce, hotel and catering – which hold the record for violations registered by the labour inspection (72 per cent) – they are essentially linked to food hygiene in catering. On the one hand, this field clearly goes beyond the scope of the inspection systems laid down in the Convention (*Article 3*) and, on the other, it is not mentioned as coming under the scope of the national inspection system by any of the texts on the subject available at the ILO. The responsibilities conferred on labour inspection personnel by virtue of Order No. 137 of 2001 of the Ministry of Labour and Social Affairs are designed to ensure application of labour legislation in regard to labour conditions, occupational safety and social protection of workers (sections 1, 2(1)), as well as ensuring compliance with labour legislation.

The Committee draws the Government's attention to *Article 3(2)* of the Convention under which any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the discharge of their primary duties. Despite plentiful relevant legislation, inspection activities designed to ensure the application of provisions on labour conditions and workers' protection seem, nevertheless, to account for only a very small share of the material resources and working time of the labour inspection staff in comparison with its activities designed to supervise movements of foreign workers. Such a situation is contrary to the letter and the spirit of Convention No. 81 and must therefore be remedied by measures ensuring the reorientation of the labour inspection function in compliance with the requirements of the Convention. ***Noting that Ministry of Labour and Social Affairs Order No. 111 of 1998 provides for participation of representatives of the central labour inspection administration in the preparatory commission for labour inspector training sessions, the Committee trusts that, in accordance with the spirit of Article 7 of the Convention, these programmes will relate in future to improving inspectors' capacities to carry out the work inherent in supervision of legislation relating to labour conditions and protection of workers and that information indicating developments in this direction will soon be supplied to the ILO.***

The Committee cannot overemphasize the value of ensuring that the labour inspection is directed principally at functions ensuring the application of legal provisions relating to conditions of work and protection of workers and is freed from any other function constituting an obstacle to the performance of these functions, as would seem to be the case in regard to hygiene control of food in commercial catering and the control of documents relating to movement of migrant workers. ***The Committee hopes that the Government will take measures to this end and that information on progress in this direction will soon be supplied to the ILO, including statistical data included in the annual inspection report.***

The Committee is addressing a request on another point directly to the Government.

Kyrgyzstan

Labour Statistics Convention, 1985 (No. 160) (ratification: 1992)

The Committee notes with regret for the seventh year in succession that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, reiterated since 1999, which read as follows:

Legislation. As the only mention of legislation in the report is the reference to Law No. 1391-XII "On State Statistics" in connection with confidentiality, ***the Committee requests the Government to provide a list of the laws and regulations which apply the provisions of the Convention.***

Article 2 of the Convention. ***The Committee asks the Government to indicate which of the international standards were taken into account when designing the concepts and methodology for the collection and publication of the statistics covered by Articles 8 to 10 of the Convention. It notes that the National Statistical Committee is engaged in a reform of the official statistics, in line with the international guidelines, and asks the Government to keep the ILO informed of the developments and the implementation of this reform.***

Article 3. ***As there is no information about consultation with representative organizations of employers and workers the Committee requests the Government to indicate if these organizations have been or are consulted when developing and/or***

improving the statistical infrastructure and when revising concepts and methodology, as well as at which stage of the statistical and technical process the consultations took (take) place with regard to the statistics covered by the Convention.

Article 7. Although employment data are classified according to the United Nations classification, ISIC-Rev. 3, the Committee asks the Government to indicate whether it follows the ILO International Standard Occupational Classification (ISCO-88) and/or the International Classification of Status in Employment (ICSE-1993) (in accordance with Article 2).

Noting that no methodological information has been made available to the ILO, the Committee draws the attention of the Government to the obligations under Article 6 to communicate such information to the Office.

Article 8. As no information is available at the Office on the next population census, if one is planned, the Committee asks the Government to indicate whether, and if so when, such a census is foreseen.

Articles 9 and 10. The Committee notes that these Articles are substantially applied. It however requests the Government: (i) to publish the relevant statistics and to communicate to the ILO, as soon as practicable, the published statistics and, in particular, the titles and reference numbers of printed publications or the equivalent descriptions or reports in the case of data disseminated in other forms (in accordance with Article 5); (ii) to communicate to the ILO the most recent dates and periods for which the different types of statistics are available (also in accordance with Article 5); and (iii) to produce and communicate to the ILO detailed descriptions of the sources, concepts, definitions and methodology used in collecting and compiling the statistics (in accordance with Article 6).

Article 16. The Committee notes the information in respect of Articles 11 to 15, obligations under which have not been accepted. It is for the purpose of clarifying the extent to which effect is already given to them that the Committee is making the following remarks on some of these Articles.

Article 11. The Committee notes that statistics of average labour cost seem to have been compiled since 1994, providing data on the level and structure of labour cost. However, the breakdown by economic activity does not appear to be available. No methodological information is available either. The Committee encourages the Government to send to the ILO information concerning the publication of these statistics together with any available methodological information.

Article 12. The Committee encourages the Government to supply regularly all items and food groups monthly indices to the ILO and to provide the ILO with the relevant publications. It asks the Government to keep the ILO informed of any future developments in the field of CPI.

Article 13. The Committee encourages the Government to communicate to the ILO the results of the annual household income and expenditure survey together with a detailed description of the sources, concepts, definition and methodology used in collecting and compiling household income and expenditure statistics, if available.

It also requests the Government to keep the ILO informed of any future developments in the field of household income and expenditure statistics as there are some indications that the survey will be extended.

Article 14. The Committee encourages the Government to communicate to the ILO the relevant publications and reports concerning statistics of occupational injuries and occupational diseases.

Article 15. In accordance with Article 16, paragraph 4, the Committee would be grateful if the Government would indicate the law and practice on the statistics covered by Article 15 (statistics of strikes and lockouts) and any development concerning the extent to which effect is given to it, and to supply any available statistics and the relevant methodological information.

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

Latvia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1994)

The Committee has taken note of the information contained in the Government's report received in September 2005.

1. *Labour inspection audit.* The Committee has taken due note of the report of the tripartite mission for the audit of the labour inspection system in Latvia which was undertaken with the technical support of the ILO in October 2005. The Committee observes that several recommendations contained in the report relate directly to the application of the Convention. It notes, in particular, the recommendations concerning the need to strengthen enforcement of the legal provisions, for example by imposing tougher penalties and by submitting cases of repeated violations to the Public Prosecutor's Office, as well as the recommendations relating to the conditions of work for inspectors, calling amongst other things for an increase of the inspectors' remuneration. **The Committee looks forward to receiving from the Government detailed information on the progress achieved in implementing the recommendations of this tripartite audit on the labour inspection system.**

2. *Legislation.* The Committee has taken note of the adoption, between 2003 and 2005, of a number of regulations, by-laws, orders and amendments, which provisions have an effect on the implementation of the Convention. The Committee notes, in particular, with interest the Amendments to the Criminal Law of 12 February 2004, which adds new sanctions in case of breaches of the requirements governing labour protection, Regulation No. 284 on labour protection requirements for safeguarding of employees against risks caused by vibration in work environment of 13 April 2004 and Regulation No. 852 on labour protection requirements in work with asbestos of 12 October 2004, the implementation of which will be controlled by the State Labour Inspection. The Committee further notes that the Government refers to certain legislative texts, in particular the Amendments to the Administrative Offences Code of Latvia of 25 March 2004, the Amendments to the State Labour Inspection Law of 7 October 2004, the Amendments to the Labour Protection Law of 16 December 2004, Regulation No. 99 regarding the types of entrepreneurship where the employer shall involve a competent institution and Regulation No. 101 regarding requirements towards the competent institutions and competent

specialists in labour protection matters and procedure for assessment of the competence, both of 8 February 2005. *As these texts were not enclosed with the Government's report and as compliance with some of these regulations will have to be controlled by the State Labour Inspection or add additional rights to the labour inspectors, the Committee would be grateful if the Government could provide a copy of the said texts in order for it to evaluate their effect in light of the requirements of the Convention.*

3. *Publication of an annual report.* The Committee notes the Government's indication according to which the annual report of the State Labour Inspection for the year 2004 was sent to the ILO in May 2005. *As it appears that the Office never received this report, the Committee trusts that the Government will ensure that an annual report on all the issues mentioned under Article 21 will be published and communicated to the ILO within a reasonable period, as prescribed by Article 20 of the Convention.*

Madagascar

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)

The Committee notes the Government's report received on 8 June 2005 along with the attached documents. It also notes the new Labour Code adopted on 10 June 2004.

With reference to its previous comments concerning various deficiencies in the agriculture inspection system, the Committee notes with satisfaction the provisions of the new Labour Code which improve substantially the level of compliance of national legislation with the Convention.

1. *Article 1, paragraph 1, and Articles 4, 9, paragraph 3, and 11 of the Convention. Scope of the labour inspection service and qualifications of labour inspectors performing in agricultural enterprises.* Section 1 of the new Code indicates that it is applicable to all employers, irrespective of their nationality, status or sector of activity, and to all workers whose labour contract, whatever its form, is executed in Madagascar. By amending section 1 of the former Code by making a reference to the employer's nationality, the new Code raises the principle of its applicability to employers and workers in free export enterprises and zones, including agricultural enterprises having this status; the Government indicates that there is only one such which conducts a fruit and vegetable exporting business. The Committee welcomes this legislative progress and notes with interest that the specific training that will be provided shortly by the National Administration School for labour inspectors assigned to the agricultural sector will include technical supervision methods in the sector, relevant international safety and health standards, the prevention of occupational disease and accidents and the employment of women and adolescents, in addition to other unspecified subjects.

The Committee trusts that the Government will supply in its next report information on the measures actually implemented for adapting training of labour inspectors to the specific working and living conditions of workers and their families living in agricultural enterprises, particularly in plantations and the agriculture sector free enterprise area.

The Committee recalls the obligation under *Article 11* of the Convention that the necessary measures shall be taken to ensure that duly qualified technical experts and specialists who might help to solve problems demanding technical knowledge, are associated in the work of labour inspection in agriculture. *The Committee would be grateful if the Government would take such measures and supply information on any progress made in this direction, particularly in establishing technical controls on the safety and health of agricultural workers and members of their families exposed to hazards linked to the use of chemical products, complex plant and machines or contact with potentially dangerous animals or plants.*

2. *Article 15. Financial resources necessary for the operation of the labour inspection service in the agricultural sector.* The Committee notes with satisfaction the provisions of section 235 of the new Labour Code which requires the competent authorities to provide labour inspectors, from the state budget, with premises that are equipped and accessible to the public concerned, transport facilities and reimbursement of any travelling and incidental expenses necessary for the performance of their duties. While accessibility to local inspection offices is a prerequisite for spontaneous collaboration between workers and employers, the mobility of supervisory staff is a prerequisite for labour inspection, and is even more crucial in agricultural undertakings which are by their nature far from urban centres and, in addition, often spread through vast regions lacking public transport facilities. It is therefore particularly important that adequate financial resources are allocated to make available resources and transport facilities through written decisions in the state budgetary forecasts. That should contribute to better planning and conducting of inspection activities. *The Committee hopes that the Government will indicate in its next report the manner in which effect has been given, in law and in practice, during recent budget exercises, to the aforementioned section of the Labour Code.*

3. *Article 6, paragraph 2, and Article 16. Inspectors' powers of inspection.* The Committee notes with satisfaction section 238 of the new Labour Code which gives effect to its previous requests that legal provisions concerning investigatory powers of labour inspectors should be supplemented to ensure greater conformity with the provisions of paragraph 1(c)(i), (ii) and (iii) of this Article of the Convention. The Committee notes, however, that there are no legal provisions ensuring that inspectors have enforcement functions relating to conditions of life of workers and their families.

It hopes that measures will be taken to this effect, in particular in plantations and in free agricultural enterprises where workers and their families may be accommodated, and that pertinent information will be communicated to the ILO.

4. *Articles 22, 23 and 24. Repression of violations to the legal provisions enforceable by labour inspectors.* The Committee notes with particular interest the provision introduced by section 239 of the new Labour Code, providing an obligation for the State Prosecutor to submit directly to the judge within one month the labour inspectors' report. This provision corrects the general trend for magistrates to shelve the court records of violations submitted to the court and thus to nullify labour inspection activities attempting to enlist the judicial authorities to persuade employers to comply more fully with legislation on labour conditions and the protection of workers in the exercise of their occupation. By instituting effective and diligent cooperation of the judicial authorities for the purpose of ensuring compliance with the objectives of the inspection, the legislator indicates a real will to reinforce the inspection services' role. ***The Committee trusts that this legislative progress will be accompanied by measures intended to make the judiciary more aware of the value of treating questions linked to protection of workers with the necessary seriousness and of making appropriate decisions in each case on the basis of the degree of gravity of the circumstances.***

5. *Articles 25, 26 and 27. Reports on the activities of labour inspectors.* The Committee notes that no annual inspection report covering agricultural undertakings has been received by the ILO since ratification of the Convention. It notes, however, that the Government has implemented measures intended to improve collection of relevant information from external services. The Committee emphasizes that such reports can be prepared only if the labour inspectors supply to the central inspection authority the periodic reports referred to in *Article 25* on their activities in agriculture. ***It hopes that the measures mentioned by the Government include the preparation by the central authority of inspection forms for this purpose. The Committee also hopes that an annual inspection report containing as far as possible the information required under each of points (a) to (g) of Article 27 will shortly be communicated regularly to the ILO.***

6. *Inspection of child labour.* According to the Government, the ILO/IPEC program against child labour is in process of identifying intervention zones and the target population in regard to the agricultural sector. The Government also announced in its report on the Minimum Age Convention, 1973 (No. 138) an institutional strengthening for this purpose, without specifying whether this affected the labour inspection system which, nevertheless, under section 234 of the new Labour Code, is responsible for supervision of this matter. ***Referring to its 1999 general observation under the Convention, the Committee urges the Government to envisage implementing measures involving active participation of labour inspectors in the identification and repression of violations of legislation on work of children and young persons in agricultural enterprises where, according to ILO statistics, this issue is particularly important.***

The Committee is addressing a request on other matters directly to the Government.

Malawi

Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)

The Committee notes the information supplied by the Government in its report received in November 2005, and the copy of the TEVET Act, No. 6 of 1999. It also notes the Government's comments replying to the observations of the Malawi Congress of Trade Unions (MCTU) received by the ILO on 5 April 2005.

Situation of the labour inspection system. The MCTU alleges, contrary to the Government's statement in its last report that the Labour Inspectorate has been reinforced, that the Inspectorate has done nothing whatsoever about the many breaches of the law by employers. One enterprise allegedly dismissed 280 employees without any consultation of workers' representatives, and another got rid of a worker two years before he was due to retire. In 2000, more than 50 employees were dismissed after a union was formed in the enterprise where they were employed, and in another enterprise two workers who had received MCTU training were laid off.

The Committee notes that in reply to the MCTU's allegations, the Government states that it knows nothing of the instances of violation cited, but that if any worker feels that his/her rights have been violated, he or she is free to lodge a complaint at the district labour office, the industrial relations court or any other court.

As to the human resources of the Inspectorate and their qualifications, the Government indicates that six new inspectors have been hired to strengthen the Occupational Safety and Health Directorate. It also states that a five-day workshop was organized in the context of the Improving Labour Systems in Southern Africa (ILSSA) project, with financial assistance from the ILO, and was attended by 23 labour officers, four union members and two employers' representatives.

As regards material resources, the Committee notes that UNICEF has given the Ministry of Labour and Vocational Training 22 motorcycles, which has greatly strengthened the inspections in 11 districts, and that two motor vehicles have been deployed in the southern region and central region. The Committee further notes that seven motorcycles were to be distributed to districts that have none.

With regard to the increase in the number of occupational accidents in recent years, the Government expresses the need for technical assistance from the ILO through capacity-building programmes on occupational safety and health matters.

With reference to the MCTU's observations and a report on a mission carried out by the Harare Regional Office from 1 to 4 May 2006 as part of the project to strengthen administration systems in the countries of southern Africa, the Committee notes that the MCTU's views coincide with those of the Employers' Consultative Association of Malawi (ECAM) regarding the weaknesses of the inspection system and their causes: a lack of financial resources, transport facilities and equipment; low morale and high staff turnover of labour officers and inspectors. Both organizations note that the functioning of the system is affected by a lack of dialogue and of consultation between the social partners and regret that the Government has sent them neither a copy of the ILO's report on the Convention nor the annual inspection report, and that the Labour Advisory Council does not meet regularly enough given the subjects that it could discuss. The Committee further notes that 50 labour inspection posts remain vacant although the Government indicated that 18 of them would shortly be filled by candidates with a university education.

Having examined labour inspection and particularly the coordination mechanisms and system of reporting between central and district offices, the Committee has come to the view that there are no structural obstacles to the setting up of a labour inspection system but that the latter falls short of the Convention in a number of ways:

- the lack of a labour inspection policy setting relevant guidelines and rules of conduct for inspectors;
- insufficient coordination between inspection services and between the latter and the central authority, and the lack of contact between the services responsible for occupational safety and health and other inspection services;
- difficulty of setting up cooperation between social partners because of the current lack of dialogue;
- the planning of inspections is not systematic and the inspection services fail to react when notified of violations;
- there is no register of establishments which can guide inspectors as to the inspection needs and the establishments to be targeted;
- there are no individual files for establishments inspected to facilitate easy follow-up.

The mission concluded that the strengthening of the inspection system should be stepped up with a view to attaining decent work objectives and promoting sound and fair labour market governance, particularly now that there is an opening up to foreign investment. It made the following recommendations:

- (1) the Ministry should involve the social partners in developing the labour inspection system in order to secure their cooperation;
- (2) the Ministry should formulate a labour inspection policy that will provide guidance for inspections;
- (3) there should be more planning of inspections so that the Inspectorate can play its preventive role, particularly in certain branches of activity;
- (4) the office of the chief labour officer needs further strengthening to enable it to play more of a role in the setting of annual targets and monitoring the performance of inspections in the field, both qualitatively and quantitatively;
- (5) there should be closer collaboration between the chief labour officer and the director of safety and health, inter alia, through joint planning, in order to move towards a more integrated inspection system.

The Committee firmly hopes that the Government will take steps to follow up the mission's recommendations, and will keep the Office informed of any developments in this respect and report to it any difficulties encountered.

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)

The Committee notes the information provided by the Government in its report received in November 2005, and its comments in reply to the observations made by the Mali Congress of Trade Unions (MCTU) on the application of the Convention, received by the ILO on 5 April 2005. ***With reference to its observation under Convention No. 81, the Committee requests the Government to provide information in its report under the present Convention on any measure adopted to give effect to the recommendations of the mission undertaken by the ILO's Regional Office from 1 to 4 May 2006, in the context of the project to reinforce labour administration systems in the countries of southern Africa, in so far as such information relates specifically to labour inspection in agricultural undertakings.***

1. *Ineffectiveness of labour inspection.* The Committee notes that, according to the MCTU, labour inspectors lack commitment in the area of enforcement, particularly in cases relating to the non-payment of wages in tobacco plantations and disparities in wages between men, women and young persons working in tea and tobacco estates.

The Committee notes that, according to the Government, differences in wages should be explained by the fact that men, women and young persons are not given work of equal value. ***The Committee requests the Government to indicate whether labour inspectors have had cause to examine complaints in this respect and, if so, to provide any relevant document, such as copies of inspection reports or correspondence addressed to the impugned employer or the workers who have made complaints. If not, the Government is requested to take measures to ensure that inspections targeting compliance with wage provisions in the undertakings indicated by the organization are carried out not only on the basis of complaints, but also in a regular manner, so as to encourage employers to comply with the relevant legislation.***

2. *Article 15(b) of the Convention. Transport facilities.* According to the MCTU, the Government is not capable of providing inspectors with adequate transport facilities for the discharge of their duties in agriculture because of budgetary constraints. The Government indicates in this respect that, with the donation of 22 motorcycles by UNICEF and seven others in the context of the ILO project for the strengthening of labour inspections systems in Southern African countries (ILSSA), labour inspectors are now able to cover more areas and have since intensified labour inspections in the agricultural sector. ***The Committee takes due note of this information and requests the Government to indicate the measures adopted for the adequate and regular provision of the fuel required for travel by inspectors and the maintenance of motorcycles in view of the remoteness and dispersion of agricultural undertakings and the state of access roads, and also to provide data on trends in the scope of inspection activities as a result of the improvement of transport facilities.***

3. *Article 8, paragraph 2, and Article 18, paragraph 4. Collaboration between trade unions and the labour inspectorate.* According to the MCTU, the Government is unwilling for trade union leaders to undertake inspections or accompany inspectors during inspections. The Government indicates that labour officers themselves are unwilling to be accompanied by union leaders as experience has shown that where the Government is running projects on child labour, union leaders have gone to such workplaces and demanded to inspect the workplace. As union leaders, in contrast with labour inspectors, have no legal mandate and are not trained for that purpose, they cannot conduct inspections effectively.

The Government adds that, when labour inspectors visit establishments where union leaders are employed, consultations take place before the inspection and labour inspectors are accompanied by shop stewards. Furthermore, before leaving the establishment, the labour inspector also briefs the management and the union leaders on the findings of the inspection.

With reference to *Article 8, paragraph 2*, of the Convention, the Committee draws the Government's attention to the possibility of including in the system of labour inspection in agriculture, officials or representatives of occupational organizations, whose activities would supplement those of the public inspection staff, and who should be assured of stability of tenure and be independent of improper external influences. ***As this is an optional provision, the Committee would be grateful if the Government would examine whether, and to what extent, it could envisage making use of this possibility for the needs of the application of the Convention in relation to national conditions.***

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

Mauritania

Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

The Committee notes the Government's reports provided on 28 September 2004 and 11 October 2005 and the summary reports of the activities of regional labour inspectorates for 2003 and 2004. It also notes Act No. 2004/017 of 2004 issuing the Labour Code, and the observations on the application of the Convention communicated to the ILO by the World Confederation of Labour (WCL) on 29 August 2005 and forwarded to the Government on 4 October 2005. The Committee further notes the proposals made by the ILO fact-finding mission to Mauritania (May 2006), undertaken following the discussion held in the Committee on the Application of Standards of the International Labour Conference in June 2005 (93rd Session) on the application of the Forced Labour Convention, 1930 (No. 29).

1. *Situation of the labour inspection system.* According to the WCL, the current situation of labour inspection in the country cannot in any manner respond to the strict minimum level of need. It reports that the inspection services do not have either the resources or the structure to enable labour controllers and inspectors to discharge their functions. Very few inspection services are distributed throughout the country. The sole inspector appointed to cover five regions in the centre and east of the country does not have transport facilities, and the possibilities of communication with workers are therefore very limited. According to the WCL, no training has been undertaken for inspectors and no inspection officials recruited. The WCL considers that the low level of action by the inspection services is at the origins of enormous problems for workers and the poor management of labour disputes.

Further to its previous observation, the Committee also notes with concern the information contained in the report of the ILO fact-finding mission to Mauritania and the summary reports of regional inspection services referred to above describing an embryonic labour inspection system both in terms of human resources and financial, material and logistical resources. The reports of the regional inspection services also show that, due to the critical lack of inspection staff and administrative officials, it is impossible to guarantee the required confidentiality in relations with users and that the most elementary facilities are lacking, such as decent sanitation, electricity, water, telephone lines, furniture (chairs and cupboards), electronic office equipment and transport facilities. The conditions of service of inspection officials are such that they have no hesitation in leaving the service to take up employment in the private sector in view of the benefits on offer. The Committee notes the suggestion made by the ILO mission to update an earlier audit of the labour inspectorate (to which the Government refers in its report provided in September 2004, the recommendations of which were not given effect, due to lack of resources) and to call on other interested United Nations agencies and donors to mobilize the necessary resources to strengthen the labour inspectorate. ***The Committee hopes that this appeal will be heeded rapidly and that the Government will soon be in a position to provide information on the outcome of the action taken in this respect.***

2. *Specific status of labour inspectors.* Further to its previous comments on this subject and the conclusions of the discussion in the Committee on the Application of Standards of the International Labour Conference in June 2000, the Committee notes that, according to information posted by the Government on its web site, the specific status of labour inspectors was approved by the Council of Ministers on 11 October 2006. According to the Government, this status should substantially improve the conditions of service of labour inspectors and controllers. ***The Committee would be grateful if the Government would provide a copy of the definitive text when it has been published.***

3. *Article 7 of the Convention. Training of labour inspection personnel.* The Committee notes with interest that labour inspectors and controllers benefit from further training at the National School of Administration (ENA) at Nouakchott and the African Regional Centre for Labour Administration (CRADAT) in Yaoundé through seminars and workshops organized by the ILO, the Arab Labour Organization and UNICEF. ***The Committee would be grateful if the Government would provide precise and detailed information on the contents of the training activities and their duration, and on the personnel concerned.***

4. *Articles 20 and 21. Annual inspection report.* ***As no annual inspection report has been provided to the ILO since 1987, the Committee hopes that the Government will rapidly take measures to establish conditions in which the central labour inspection authority can collect data on the activities on the services under its control with a view to the preparation of a report. The level of detail of the information that the report should contain so that it can be used as an instrument for the evaluation of the labour inspection system, is indicated in Part III of the Labour Inspection Recommendation, 1947 (No. 81).***

5. *Labour inspection and child labour.* ***Noting with interest the indication that a study on child labour was conducted with the cooperation of UNICEF, the Committee would be grateful if the Government would provide information on the conclusions of the study and indicate the role that will be entrusted to labour inspectors and controllers in combating child labour in the enterprises covered by the Convention.***

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

Mexico

Labour Administration Convention, 1978 (No. 150) (ratification: 1982)

The Committee notes the Government's report for the period ending 30 May 2005, submitted in response to its previous comments. It also notes the Act of 3 April 2003 on careers in the federal public administration and the regulations of 31 March 2004 issued for its implementation. The Committee also notes the statistics tables concerning: (i) occupational training activities; (ii) the awarding of grants during the 1999–2004 period; (iii) collective agreements negotiated in different branches of activity; (iv) collective labour disputes; and (v) complaints received by the labour administration services and advice given between 1999 and 2005.

1. *Articles 5 and 6, paragraph 2(c), of the Convention. Consultation, cooperation and negotiation between the public authorities and the most representative organizations of employers and workers or employers' and workers' representatives.* In reference to its previous comments, the Committee notes the Government's indications that the national development plan is drawn up by the federal executive power on the basis of considerations, proposals and requests put forward by citizens and social groups within the framework of public consultations and, in the field of labour, on the basis of the results of consultations with employers and workers held by the Secretariat for Labour and Social Insurance with a view to the promotion of new jobs, the improvement of the working environment, so as to increase the productivity of enterprises, and the development of training for workers. The Committee notes with interest that the Government maintains a permanent dialogue with numerous workers' organizations, as well as with representatives of workers in the public and private sectors of all branches of economic activity (Confederation of Workers of Mexico, Revolutionary Confederation of Workers and Farmers, Trade Union Association of Pilots of Mexico, Trade Union Federation of State Employees, Trade Union of Oil Workers, Chemical Industry Workers and Television Workers, etc.), on specific problems and on activities relating to trade unions, labour justice, occupational training, and occupational safety and hygiene. The Committee is also interested to note that the bodies responsible for workers' housing, wage protection, conciliation and arbitration, and occupational safety, hygiene and health, work in collaboration with the social partners both at national and federated state level (National Joint Committee on Wage Protection, Federal Conciliation and Arbitration Council, local conciliation and arbitration councils, safety and hygiene advisory committees of different states, Council for Dialogue with the Productive Sectors, etc.).

2. *Part V of the report form.* The Committee is interested to note the activities undertaken in collaboration with the ILO between 2001 and 2005, in particular the preparation of a study on working days and the organization of work in Mexico, conciliation and mediation training, the launching, in 2004, of a project to strengthen institutional mechanisms of social dialogue, the carrying out of an audit on the effectiveness of local conciliation and arbitration councils, and the implementation of a project on methods for assessing occupational safety policies. ***The Committee would be grateful if the Government would keep the ILO informed of the impact of the abovementioned activities on the functioning of the labour administration system and on the results achieved with regard to objectives.***

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

Republic of Moldova

Labour Inspection Convention, 1947 (No. 81) (ratification: 1996)

The Committee notes the Government's report. In its previous comments, the Committee noted the observations made on 30 January 2004 by the General Federation of Trade Unions of the Republic of Moldova (CSRM) on the subject of the Government's previous report on the application of the Convention and on the information provided in reply by the Government. The Committee also noted the adoption of a new Labour Code dated 28 March 2003 and a new Penal Code dated 18 April 2002 and it had requested the Government to supply further information on the training of inspection staff and on material resources, equipment, transport and reimbursement of expenses for occupational costs, as well as a copy of the relevant texts and documents to enable it to make an assessment of the situation of law and practice in regard to the Convention.

The Committee notes that relevant information is provided in the annual inspection report, received by the Office in July 2006.

1. *Part I of the report form. Provision of the legislation and regulations giving effect to the Convention.* While noting with interest the introduction in the new Labour Code of a large number of provisions in conformity with the spirit and the letter of the Convention in regard to the functions and operation of the State labour inspectorate, the powers, prerogatives and obligations of inspectors, and the obligations of employers, the Committee notes that the Government has not provided the legislative texts and agreements that it indicated were attached to the report. ***It therefore once again requests the Government to send to the Office, as soon as possible, the following texts:***

- ***Public Service Act No. 443-XIII of 4 May 1995, Order No. 1481 of 27 December 2001 regulating labour inspection;***
- ***Order No. 1736 of 31 December 2002;***
- ***Ministry of Health Instruction No. 257 of 8 November 1993;***
- ***the Code of Administrative Offences;***
- ***Order No. 836 of 24 July 2002 respecting reimbursement to inspectors of service-incurred expenses; as well as***
- ***texts of the cooperation agreements concluded between the labour inspectorate and the Confederation of Free Trade Unions of the Republic of Moldova "Solidarity", the CSRM and the National Confederation of Employers of the Republic of Moldova.***

2. *Articles 7, 10 and 11 of the Convention. Training of labour inspectors and resources of the inspection services.* The annual inspection report for 2005 shows that labour inspectors have benefited from various training courses, for example on occupational safety and health in the context of a national programme for the prevention of injury from electrocution. The programme is financed by the European Bank for Reconstruction and Development, with the support of a Canadian hydroelectric company. Exchanges of experience have also been organized with the Belgian and Romanian labour inspectorates. The Committee notes this information with interest. However, with regard to the resources of the labour inspectorate, it notes that the number of inspectors is not sufficient to cover the need for inspection in all the fields of legislation for which they are responsible and the material resources available to them are inadequate. Moreover, the discharge of their inspection functions is hindered by the obstruction of certain employers, which could serve to perpetuate the phenomenon of illegal work. ***The Committee would be grateful if the Government would provide information on any measures envisaged or implemented to remedy the shortcomings indicated in the annual report, and any relevant text.***

In addition, the Committee would be grateful if the Government would supply, in compliance with article 23, paragraph 2, of the ILO Constitution, its 2004 report in response to the comments of the CSRM to the latter organization, as well as to the other most representative organizations of employers and workers.

The Committee is addressing a request on other matters directly to the Government.

Netherlands

Labour Statistics Convention, 1985 (No. 160) (ratification: 1990)

The Committee notes the Government's report and the information supplied in reply to its previous comments. It also notes the convergence of opinions expressed by the Trade Union Federation of Middle and Higher Level Employees (MHP) and Statistics Netherlands (CBS) and endorsed by the Government. The ILO Bureau of Statistics is fully aware that the methodology of statistics on labour costs has been altered and that they cannot therefore be compared with those from previous surveys. The ILO Bureau of Statistics provided the CBS with guidelines in 1999 to the effect that such statistics should nevertheless be accompanied by explanatory notes, codes and other technical publication and distribution methods designed to inform users of the lack of comparable features in regard to data from previous surveys. The Committee notes, however, that despite these clarifications, the statistics have still not been transmitted to the ILO. ***The Committee draws the Government's attention to its obligations under Article 5 of the Convention, to transmit to the ILO the statistics covered by Article 11, as soon as they become available and as soon as practicable. It would also be grateful if the Government would indicate the measures envisaged to ensure that, in accordance with Article 5 of the***

Convention, statistics on labour cost, consistent with data on employment and hours of work (hours actually worked or hours paid for), cover the important branches of economic activity, in particular industrial activity (Article 11).

Article 8. Information available at the ILO indicates that the most recent population census (2001), conducted in accordance with a new approach laid down by the European Union, emphasizing economic activity is based on administrative registers containing full and detailed information on employment and social security. A social security database sourcing information from a wide range of administrative registers and sample surveys provides detailed information on persons, households, occupations and (social) benefits. The Committee notes with interest that the results of the method used are published on the CBS Internet site. ***The Committee would be grateful if the Government would supply a detailed description of the system so that the Committee can recommend its use by a larger number of members.***

The Committee is addressing a request on other matters directly to the Government.

New Zealand

Labour Statistics Convention, 1985 (No. 160) (ratification: 2001)

The Committee notes with satisfaction the measures adopted recently by the Government as a result of which:

- (1) underemployment is measured in the manner defined by the 1998 International Conference of Labour Statisticians (*Article 7*);
- (2) the resolutions of the 2003 International Conference of Labour Statisticians are given full effect by Statistics New Zealand (*Article 12*); and
- (3) the provisions of the resolution adopted by the 2003 Conference have been followed in designing the concepts, definitions and methodology used in the collection, compilation and publication of household income and expenditure statistics (other than for the coverage of goods and services received as income in kind or produced for barter or own consumption, free subsidized goods and services provided by employers, housing services provided by owner-occupied dwellings and income taxation payments).

Niger

Labour Inspection Convention, 1947 (No. 81) (ratification: 1979)

The Committee notes the Government's report received in September 2005 and the information provided in reply to its previous comments. The Committee has also noted the report of the high-level fact-finding mission conducted from 10 to 20 January 2006 by the ILO further to the conclusions of the Committee on the Application of Standards of the ILC (May–June 2005), on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), and extended to issues of forced labour and slavery.

Need for a labour inspection audit for determining needs and their satisfaction with ILO support and international financial cooperation. The Government indicates that, contrary to the statement in its previous report, it has not been possible to mobilize the expected increase in the budgetary allocation for the labour inspectorate for budgetary year 2004 but that it will continue its endeavours in this direction. While indicating that the inspection staff is spread throughout the territory in accordance with availability of its officers and that each regional labour inspection service has a vehicle and a fuel allowance, the Government continues to refer to difficulties regarding the inadequacy, in both quantity and quality, of staff, given the size of the country and the predominance of the informal sector. In the 1997 annual report of the Directorate for Employment Promotion and Occupational Training, it was indicated, moreover, that labour inspections carry out the functions of the Directorate which focus chiefly on matters of employment and training, as attested by the monthly reports for 1999 of the regional inspections for Tarlit and Zbinden, which contain only sparse data regarding inspection activities. According to the conclusions of the ILO's high-level fact-finding mission report, labour inspection (which plays a key role in the campaign against child labour and forced labour) is desperately short of the necessary resources to carry out its various missions, in terms of both human resources and material resources. Consequently, the mission recommended carrying out an audit of the labour inspectorate to determine exactly the type and scope of its needs and considered that, once that had been carried out, the Government, with the support of the ILO and of other United Nations agencies and concerned donors, could endeavour to mobilize the necessary resources.

The Committee hopes that measures will be taken speedily by the Government, in consultation with employers' and workers' organizations, with a view to assembling the logistical and substantive conditions for launching, under ILO auspices, an audit of the labour inspectorate permitting the progressive application of the Convention in accordance with national priorities and requirements.

Norway

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

The Committee notes the Government's report indicating the main changes that have occurred in application of the Convention during the period covered, the statistical data on industrial accidents by branch of employment that occurred during the period 2002–03 and the labour inspection reports for 2003 and 2004.

The Committee also notes the Government's partial replies to the matters raised by the Norwegian Confederation of Trade Unions (LO) in the comments the latter communicated to the ILO in February 2004 and to the further comments from the same organization, transmitted with its report.

1. *Dissolution of the Labour Inspection Consultative Council.* In its 2004 comment, the LO expressed concern at the manner in which the Council of the Labour Inspection Authority in which consultations were held between the authorities and the social partners has been dissolved. From the LO's point of view, the recent reorganization of government services responsible for safety and health at work and the environment has had an impact on their spheres of competence. In addition, the removal of the Directorate of Labour Inspection from Oslo to Trondheim has resulted in supplementary financial constraints prejudicial to its operation, particularly for supervising compliance with legislation and regulations concerning health and safety at work throughout the transition period. The LO regretted in particular that the removal had been made without any consultation with the social partners.

The Committee notes that, according to the Government, the relocation of the Directorate of Labour Inspection was the result of a government decision and approved by the Norwegian Parliament. The Government undertook, however, to ensure that the labour inspection authority would fulfil its obligations under section 74 of the Act relating to worker protection and the working environment as soon as the Directorate of Labour Inspection was installed. ***The Committee requests the Government to keep the ILO informed of any changes in the operation of the labour inspectorate in aspects associated with the changes mentioned by the LO and to indicate the measures taken or envisaged to promote collaboration, in accordance with Article 5(b) of the Convention between the labour inspectorate and employers' and workers' organizations.***

2. *Inspection staff and collaboration of experts and technicians.* In a more recent comment, the LO stated that there had been a reduction in the labour inspection capacities which no longer fulfilled the requirements of *Article 9* of the Convention under which each member shall take the necessary measures to ensure that duly qualified technical experts and specialists, including specialists in medicine, engineering, electricity and chemistry, are associated in the work of inspection, for the purpose of securing the enforcement of the legal provisions relating to the protection of workers' health and safety. According to the LO, the reorganization of the inspection services has resulted not only in a decrease in the number of experts and specialist technicians but also in the number of inspectors in general. It requests that measures should be taken to reinforce numbers in order to bring them into compliance with the requirements of *Article 10* and that, as provided in *Article 16*, workplaces should be inspected as often and as thoroughly as necessary. The Government has stated that these assertions of LO are unfounded and that not only has there been no reduction in the inspection staff but that personnel will be transferred from the directorate to the regions according to the new organizational model. ***The Committee hopes that the Government will not fail to keep the Office informed of progress made in this direction and that it will supply statistical information illustrating the geographical distribution of inspection staff broken down by category and speciality under the new organizational model.***

3. *Reporting of occupational accidents and diseases.* According to the LO, in the current state of the system for reporting occupational accidents and diseases, there is gross underreporting. The LO considers it necessary that measures be taken to ensure that these statistics reflect the actual situation more faithfully. The Government, for its part, states that not all occupational diseases are compensated – notably, musculoskeletal and psychiatric diseases are excluded. The Government states, furthermore, that the lack of reporting of cases of occupational disease is due to the existence of two systems, one administered by the social security system and the other vested in the responsibility of all doctors who diagnose a disorder of occupational origin. According to the Government, most doctors neglect to carry out properly their obligations in this regard. ***The Committee would be grateful if the Government would indicate the measures taken or envisaged to remedy this lack which is clearly prejudicial to the sufferers and their dependants and to supply supplementary information in reply to the point raised by the LO on the subject of failings in the occupational accidents reporting system.***

4. *Failings in the system for taking proceedings against violations.* According to the LO, the procedure for proceedings against violators of the legislation, which falls within the competence of the labour inspectors, is subject to a laborious procedure incompatible with the requirements of *Article 17* of the Convention which provides that prompt legal proceedings shall be taken. The LO considers that the current procedure undermines the authority of the labour inspectors. ***Noting the lack of comment by the Government on this view expressed by the LO, the Committee requests to Government to indicate how it is ensured that labour inspectors carry out their supervisory function effectively in its dual educational and repressive aspect, when the second aspect is necessary to obtain compliance with the law.***

Labour Inspection (Agriculture) Convention, 1969 (No. 129) ***(ratification: 1971)***

The Committee notes the Government's report on the application of the Convention for the period ending 31 May 2005. It refers to its observation under Convention No. 81 in relation to the Government's replies to the points raised by the Norwegian Confederation of Trade Unions (LO) in February 2004 concerning the abolition of the Board of the Labour Inspection Authority and the relocation of the Directorate of Labour Inspection from the capital to Trondheim.

The Committee also notes the new comments made by LO, forwarded to the ILO by the Government with its report in October 2005, concerning shortcomings in the application of several provisions of the Convention.

1. *Article 6(b) of the Convention. Provision of technical information and advice to workers.* According to LO, technical information and advice is provided principally to farmers by a tripartite body *Landbrukshelsen*, but hardly to farm workers. Moreover, this body only covers a limited aspect of this function.

2. *Article 13. Collaboration between officials of the labour inspectorate in agriculture and employers and workers, or their organizations.* LO indicates that such collaboration only exists in the forestry sector through a tripartite body *Skogbrukets HMS-utvalg*. It regrets that no such body or provisions have been adopted to promote collaboration between labour inspection officials and the social partners for the farming sector.

3. *Article 14. Number of labour inspectors in relation to the workplaces subject to inspection.* According to LO, there are clearly insufficient numbers of labour inspectors, since as much as ten years would be required to inspect all the workplaces covered by a single inspector. The Committee notes the information provided by the Government concerning the diversity of situations in the distribution of work between inspectors in the various inspection offices. Although every office has agricultural expertise, it varies from office to office whether inspectors are specially assigned for agricultural inspections. With reference to its 2003 observation in which it noted a comment by LO concerning the downsizing of the staff of labour inspection in agricultural and its consequences on the protection of workers, the Committee notes that, according to the Government, not only has there not been any reduction in inspection staff, but it is envisaged to transfer personnel from the Directorate to the regions. The Government adds that, once the relocation of the Directorate of Labour Inspection is completed, it will make every effort to comply with the legal obligations deriving from section 74 of the Act relating to worker protection and the working environment and the relevant regulations.

4. *Article 19(1). Notification of occupational accidents.* According to LO, there is widespread under-reporting of occupational accidents. The system of notification is not therefore effective and measures need to be taken to improve it.

5. *Articles 26 and 27. Publication and content of an annual report on inspection in agriculture.* LO indicates that no such report is prepared, either as a separate report or as part of a general annual inspection report. The brief information provided by the annual general report on the agricultural sector is inadequate in this respect. LO points out that it does not contain information on any of the subjects covered by points (b), (c), (d), (e) and (g) relating, respectively, to: the staff of the labour inspection service in agricultural; statistics of agricultural undertakings liable to inspection; statistics of inspection visits; statistics of violations and penalties imposed; and the causes of occupational diseases.

The Committee would be grateful if the Government would provide information in its next report on the measures adopted to: (i) improve the services of the labour inspectorate in relation to the provision of technical information and advice to workers concerning the most effective means of complying with the legal provisions (Article 6, paragraph 1(b)); (ii) promote effective collaboration between officials of the labour inspectorate and the social partners in all activities in agriculture (Article 13); (iii) improve the system for the notification of occupational accidents and cases of occupational disease with a view, for the purposes of prevention, to reflecting reliably the occupational safety and health situation (Article 19(1)); and (iv) ensure the publication and communication to the ILO by the central labour inspection authority, in the required form and within the prescribed time limits, of an annual activity report containing the required information (Articles 26 and 27).

Furthermore, the Committee requests the Government to keep the ILO informed of developments following the measures related to the relocation of the Directorate of Labour Inspection in relation to the number of inspectors in agriculture. It once again requests the Government to provide a copy of any document relating to the mandatory quality management system, including occupational health and safety aspects, established by the Norwegian Agriculture Cooperation and client companies of farms.

Panama

Labour Inspection Convention, 1947 (No. 81) (ratification: 1958)

The Committee notes the information contained in the Government's report for the period ending 30 June 2005, the replies to its comments and the annual labour inspection reports for the period 2001–04, as well as the tables of statistics on inspection activities in the region of Panama for 2005.

1. *Article 6 of the Convention. Status of labour inspectors.* The Committee notes that the system of administrative careers (established by Act No. 9 of 20 June 1994) has been relaunched and the titularization of all labour inspectors is envisaged. ***However, noting the information on the web site of the Office of the President of the Republic***

(www.presidencia.gob.pa) reporting a draft amendment to the above Act, the Committee would be grateful if the Government would provide precise information on developments in the situation of labour inspectors in this respect, indicating the number of active inspectors, the number of titularized inspectors disaggregated by grade and assignment, and give an indication as to the duration of the titularization process.

2. *Articles 3, 10 and 16. Numbers of labour inspectors and inspections.* With reference to its previous comments, the Committee notes with interest a strengthening of the staff of the labour inspectorate following a long period of decline up to 2004, during which there had also been a significant fall in the number of inspections. Reminding the Government of the criteria set out in *Article 10* of the Convention for the determination of the number of labour inspectors, the Committee hopes that efforts to achieve an appropriate increase in inspection staff will be continued at a sufficient pace to ensure that, in accordance with *Article 16*, the workplaces covered by the Convention are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal texts relating to conditions of work and the protection of workers. **The Committee would be grateful if the Government would keep the Office informed of any development in this respect and provide information on trends in the geographical and sectoral distribution of workplaces liable to inspection.**

3. *Article 14. Notification to the labour inspectorate of industrial accidents and cases of occupational disease.* The Committee notes the brief information contained in the inspection reports concerning industrial accidents and cases of occupational disease, which only covers the central region of the country, and the indication that inspectors are only informed of accidents belatedly, as the insurance fund is the principal recipient of the relevant information. According to the Government, the inter-institutional occupational health, hygiene and safety technical committee is due to propose measures in the near future intended to give full effect to this provision of the Convention. **The Government is requested to keep the Office informed of developments in the situation in this respect and to indicate the measures adopted or envisaged in law and practice to ensure that in future inspectors are notified in due time of industrial accidents and cases of occupational injury occurring in establishments liable to supervision so that they can adjust their preventive activities accordingly and provide the central authority with relevant statistics and information.**

4. *Labour inspection and child labour.* While noting with interest the inspection activities carried out in the various sectors between 2001 and 2004, the Committee notes in particular that the Child Labour Department of the Ministry of Labour has participated in the work of the commission responsible for the issue of girls and boys engaged in packing work in supermarkets and has envisaged seeking the financial support of IPEC. A review of the country project for the progressive eradication of the worst forms of child labour is reported to have been undertaken with a view to obtaining external financing for the strengthening of institutions and the implementation of relevant activities. **The Committee would be grateful if the Government would provide information on the outcome of the action to seek the necessary funding for the implementation of the country project and on developments relating to inspection activities in the industrial and commercial establishments covered by the Convention.**

5. *Articles 20 and 21. Annual inspection report.* The Committee notes with interest the implementation of the SIAL/ILO–Panama (Information System and Labour Analysis) project designed to strengthen, harmonize and systematize labour statistics. **It hopes that the Government will ensure that, in the near future, the central labour inspection authority is able to benefit from the progress achieved so as to publish and communicate to the ILO, on a regular basis, in accordance with Article 20, an annual report on the activities of the services under its control. The Committee recalls in this respect the guidance provided by Part IV of Labour Inspection Recommendation, 1947 (No. 81), on the appropriate level of detail of the information required by points (a) to (g) of Article 21 so that the annual report can be an instrument for the evaluation and improvement of the labour inspection system.**

Paraguay

Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

The Committee notes the information contained in the Government's report in reply to its previous comments, as well as the observations made by the Ibero–American Confederation of Labour Inspectors (CIIT) received by the ILO in June 2002, supplementing the observations made in 1999. It also notes the documents attached to the Government's report.

In its successive comments, the CIIT refers to a number of dysfunctions in the labour inspection system including: the absence of inspection in certain regions, particularly in Chaco Paraguayo and certain towns in the country; and the precarious employment situation of labour inspectors, the alleged discrimination in relation to their salaries, the absence of training and working tools, the intimidation measures to which they are subjected, the impunity of employers who raise obstacles to the discharge of their functions, the impunity of those violating the legislation on conditions of work and the inadequacy of the human, logistical and material resources of the labour inspectorate.

1. *Article 2 of the Convention. Coverage of the labour inspection system.* The Committee notes that, without replying to the organization's allegations on this subject, the Government nevertheless indicates that labour inspectors were brought together in a seminar on forced labour organized with ILO support in the region of Chaco Paraguayo. **It requests the Government to specify whether all towns and regions, including those in which indigenous workers are**

engaged in industrial and commercial establishments, are covered by the inspection services and to provide any relevant statistical data.

2. *Article 6. Status and conditions of service of labour inspectors.* With regard to the precarious professional situation of labour inspectors, their extreme vulnerability on the occasion of the frequent changes of government and authority, and the discriminatory treatment in relation to salaries affecting certain of them, the Government has provided information to the effect that the personnel of the inspection services are covered by the Public Service Act, as well as by the collective agreement on conditions of work concluded by the Minister of Justice and Labour and the Single Union of Officials and Employees in that Ministry, approved by Decree No. 22264 of 7 August 1998, under the terms of which the appointment of career officials first involves a trial period of two months, at the end of which it becomes definitive. The Government adds that, in accordance with section 20 of the same text, decisions to change the functions and relocate officials can only be taken with their explicit consent, and that such decisions are first submitted to the union which can oppose them by means of a reasoned appeal. ***Noting that the Government has not however provided the Office, as it indicated that it would, and despite the request made on 7 April 2006, with the text of the above collective agreement, the Committee would be grateful if it would do so as soon as possible.***

The Committee also requests the Government to indicate the measures adopted or envisaged to secure for all the inspection staff, including those assigned to safety and health, a status and conditions of service commensurate with the level of their responsibilities and to provide a copy of any relevant text.

3. *Article 7, paragraph 3. Training of labour inspectors.* In reply to the point raised by the CIIT, alleging that labour inspectors do not have the required training, as the only manual made available to them is obsolete, the Government indicates that training is provided by the Paraguayan Institute of Labour Studies (IPET) before candidates to the profession of inspector enter service and that they each receive a copy of the “Labour inspection manual”. Furthermore, according to the Government, during the course of their employment, inspectors also benefit from retraining courses which are provided by the same institution. In addition to the specific training on forced labour provided to inspectors in Chaco Paraguay, thematic courses and workshops were organized in 2004 and 2005 on child labour. ***The Committee trusts that the implementation of the project for the modernization and strengthening of the labour inspection service, with the support of the ILO, to which the Government refers, will target, among other subjects, the updating of training for labour inspectors so as to enable them to respond to the changing needs relating to the protection of workers, and that the Government will soon be in a position to provide detailed information on the content and duration of the training, and on the number of inspectors who received such training.***

4. *Articles 10, 11 and 16. Human, financial and material resources necessary for the operation of the labour inspection system and the frequency of inspections.* The insufficient numbers of inspection staff, the lack of equipment, office materials and means of transport, the absence of the reimbursement of travelling and incidental expenses to inspectors, and the insufficient number of inspections, most of which are reactive rather than proactive, are all matters of concern referred to by the CIIT and acknowledged by the Government, with particular reference to the lack of means of transport and even suitably equipped offices for certain inspectors. It states that travel expenses are nevertheless reimbursed to labour inspectors who provide receipts and that a commission responsible for undertaking programmed inspections has been created, but that an increase in human and material resources is indispensable if the frequency of inspections is to increase. ***The Committee requests the Government to indicate the measures adopted or envisaged to strengthen the human and material resources of the labour inspectorate so that it responds progressively to the requirements of Article 10 in relation to staff numbers, Article 11 concerning material conditions of work and transport facilities and Article 16 with regard to the frequency and quality of inspections.***

5. *Article 3, paragraph 2. Functions of mediation and supervision of legislation.* The Committee notes with interest, in response to the point raised by the CIIT concerning the excessive volume of mediation undertaken by inspectors to the detriment of their inspection activities, that the situation has now been rectified due to the assignment of mediation functions to other officials. However, it is not clear from the two resolutions concerning staff appointments Nos. 11 and 12, of 9 and 10 December 2003, provided by the Government, that all labour inspectors have definitively been relieved of their mediation and conciliation functions in relation to the resolution of collective labour disputes. ***The Committee would be grateful if the Government would provide information on this matter and supply a copy of any relevant legal provision.***

6. *Article 12, paragraph 1(a), and Article 18. Free access of inspectors to workplaces liable to inspection and penalties for obstructing labour inspectors in the performance of their duties.* According to the CIIT, the authorities have not reacted to information reporting the denial by certain employers of the right of labour inspectors to free access for the purposes of inspection. The Government indicates that, in practice, in such cases labour inspectors submit a report to the courts applying for judicial authorization to enter the premises. ***The Committee requests the Government to provide information of a practical nature concerning the duration of such a procedure and its impact in terms of the effectiveness of inspection and on the measures taken to ensure that, in accordance with Article 18, adequate penalties are imposed and effectively enforced against those obstructing labour inspectors in the performance of their duties.***

7. *Articles 20 and 21. Annual inspection report.* The Committee notes with regret that no inspection report has been provided for around a decade. However, it notes with interest that the Government has been able to provide information concerning the imposition of penalties against employers in violation of the legislation respecting conditions

of work, as well as statistical tables on industrial accidents in establishments located in the capital and the interior of the country in 2004. *It trusts that the Government will not fail to take measures as rapidly as possible to enable the central inspection authority to develop its capacity for the compilation of information on the activities of the inspection services, where necessary with ILO technical assistance, and to publish and communicate to the Office, in accordance with Article 20, an annual inspection report covering the whole of the country and all the matters addressed in Article 21.*

Peru

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

The Committee notes the information provided by the Government in its report and the attached documents, with particular reference to Supreme Decree No. 018-2006-TR of 28 October 2006, amending the Regulations establishing the organization and functions of the Ministry of Labour and Employment Promotion, General Act No. 28806 of 19 July 2006 on the labour inspectorate and Decree No. 019/2006-TR of 28 October 2006 issuing regulations under the General Act on the labour inspectorate. The Committee also notes the new observations made by the Union of Labour Inspectors of the Ministry of Labour and Employment Promotion (SIT), received by the Office on 20 September 2005 and forwarded to the Government on 11 October 2005. The observations made by the Trade Union of Fishing Boat Masters and Owners of Puerto Supe and Associates (SCPPSA), received by the Office on 3 December 2004 and 28 January 2005 and forwarded to the Government by letters dated respectively 17 December 2004 and 25 July 2005, are examined under the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55).

With regard to the observations made in 2005 by the SIT, the Committee notes that it reiterates in part the issues raised in an observation made in 2003, namely the numerous problems confronting the labour inspectorate, particularly the lack of support and commitment by the public authorities and the criticisms made by the social partners.

1. *Lack of support and commitment by the authorities responsible for labour inspection.* The SIT refers, among other matters, to the lack of the resources required for the operation of the labour inspectorate, in terms of infrastructure, equipment, transport facilities and the lack of consideration by the responsible authorities, resulting in pressure and unjustified victimization. Furthermore, the conditions of service of the majority of labour inspectors do not offer them any prospect of career promotion, and the level of their remuneration is clearly lower than that of their colleagues, and lower than for similar functions in other departments of the public service. The SIT provided documents containing comparative figures in this respect. It adds that a collective agreement negotiated by the SIT and the Ministry for 2004–05 was not applied in good faith by the latter. The SIT refers to a clause on the allocation of the professional travel expenses of inspectors and the delay in reimbursing their food and accommodation costs, with the arrangements failing to take into account necessary expenses on long-distance travel. The Committee notes that this agreement covers salaries, seniority allowances, the professional travel expenses of inspectors, the exercise of trade union activities and prospects to ensure against the risks related to the profession of inspector, training and temporary detachments to other units. However, from the viewpoint of the SIT, the Ministry, as employer, does not guarantee labour inspectors the conditions of service and stability envisaged in *Article 6 of the Convention*, nor decent working conditions. However, the SIT emphasizes that labour inspectors hold university diplomas of a fairly high level, are committed to solid moral and ethical principles and demonstrate professionalism and independence. It regrets that the requirement of dedication to one profession imposed on labour inspectors is not accompanied by salaries enabling them to live decently, in view of the importance of their responsibilities, and particularly the extension of their competence under the terms of section 1 of Act No. 28292 of 2004.

The Committee notes that the Government has not replied to the issues raised relating to the conditions of service and of work of labour inspectors. However, it notes with interest that Act No. 28806 of 2006 contains numerous provisions intended to guarantee labour inspectors a status and conditions of service that are in accordance with the requirements of the Convention. Section 26 of the Act provides that the system for the selection and the legal status of inspectors in the labour inspection system shall be governed by specific texts or the provisions applicable to the public service and administrative careers. These texts shall establish the legal status, conditions of service, remuneration, exclusivity of functions, transfer, promotion, classification of posts, termination of employment and disciplinary regime. The Act also establishes the conditions for recruitment and appointment in the inspectorate and the trial period for the various categories of inspection officials. The Committee notes in particular with interest that the means of ascertaining the aptitude of candidates to the profession shall be determined by the central authority of the labour inspection system (*Article 7, paragraph 2*) and that, in accordance with section 27, labour inspectors shall be obliged to participate in annual programmes of initial training and further training courses. Furthermore, under the terms of section 26, officials discharging inspection functions are ensured of employment stability and may not be sanctioned, terminated or transferred for reasons other than a professional fault. The disciplinary procedure must be of an adversarial nature, which implies the hearing and participation of the official concerned.

The Committee hopes that the Government will not fail to provide rapidly the texts issued under the above provisions of the Act and that it will supply information on any action taken by the Minister for the Economy and Finances as a result of the conclusions of the technical and market studies which, according to the SIT, have been submitted to it for examination with a view to improving the salaries of inspectors.

With reference to the SIT's observation, communicated to the Office in 2003, according to which inspectors are not protected against acts of aggression committed against them, the Committee notes that the Government has still not provided, as it indicated it would, copies of the correspondence that it stated it had addressed to the police authorities for this purpose. ***It requests the Government to provide the above copies with its next report.***

2. *Article 16. Coverage of the labour inspection system and priority establishments.* The Committee notes that, according to the SIT, employers complain that inspections tend to target large and medium-sized formal enterprises and that a repressive approach is adopted. Workers' organizations are reported to have expressed the hope that the inspectorate's database would be extended to enterprises that are not inspected so as to ensure compliance with the labour legislation. According to the SIT, analysis of the inspections carried out shows that they are generally undertaken based on the interests of the responsible authorities, and therefore cover certain categories of enterprises, but that there is no strategic planning involved. ***The Committee notes that the Government has not provided comments on the trade union's allegation concerning the methods of designating the workplaces to be inspected and the manner in which it is ensured that such inspections are unannounced and undertaken without previous notice, as required by Article 12, paragraph 1, of the Convention.***

3. *Articles 6 and 11, paragraph 1(b). Independence of labour inspectors and the provision of transport facilities.* With reference to its previous comments, the Committee notes the Government's indication that the use of means of transport belonging to employers to convey inspectors to remote workplaces only occurs occasionally. However, it notes with concern that this is a practice indicated by ten of the 24 regional divisions questioned on this point and that, in one of these divisions, in cases where inspections are carried out at the request of one party, they are financed to the level of 98 per cent by that party. The Committee therefore notes with interest that section 19 of the Regulations issued under the General Act on labour and the protection of workers of 2001, which authorized the labour inspectorate to have recourse to means of transport belonging to employers, workers or third parties concerned to undertake inspections in remote workplaces, was repealed by the General Act on labour inspection No. 28806 of 19 July 2006. ***It would be grateful if the Government would indicate the measures through which it is envisaged that inspectors will have the necessary means of transport available for the discharge of their functions.***

4. *Article 12. Right of inspectors to enter workplaces freely.* With reference to its previous observation, the Committee notes with interest that, by virtue of section 13(2) of Decree No. 019 issued under the abovementioned Act, the labour inspector is not obliged to postpone the inspection when one of the parties is absent and that the inspection may proceed without prejudice to its validity. It also notes with satisfaction that, under the terms of section 5(1) of the above Act, the inspectors are also authorized, in accordance with *Article 12, paragraph 1, of the Convention*, not to notify the employer or her or his representative of their presence where they consider that such notification may be prejudicial to the effectiveness of the inspection. The Committee noted with interest in its previous observation certain amendments made to the legislation that previously covered the right of entry of inspectors into workplaces liable to inspection, while emphasizing that there nevertheless remained contradictions on certain matters in relation to the requirements of the Convention. This is still the case as, under the terms of section 10 of the Act of 2006 referred to above, all inspections are subject to a mission order from the responsible authority, including those based on a complaint or a request for information or technical advice. Contrary to the explanations provided by the Government in its report, there is therefore no exception to the principle of prior authorization, as this provision reiterates the requirement for a mission order not only for programmed inspections and those covering a specific field, but also for all inspections. As a result, inspectors never have the initiative of their action. Emphasizing the negative impact of the various restrictions placed in certain countries on the right of entry of inspectors on the effectiveness of their action, the Committee once again indicated in its 2006 General Survey on labour inspection that these restrictions in law or in practice can only stand in the way of achieving the objectives of labour inspection as set out in the instruments and that they are not in conformity with the Convention. It therefore urged the governments of the countries concerned to take the necessary measures to eliminate them in law and in practice (paragraph 266). With regard in particular to inspections resulting from a complaint, the Committee considers that the principle that they should be subject to a mission order is contrary to the principle set out in the Convention that the labour inspector should be prohibited from revealing to the employer the reason for the inspection. ***The Committee therefore hopes that the Government will not fail to take measures to amend the relevant legislation to bring it into conformity with the Convention on this essential point and to ensure that labour inspectors are henceforth empowered to enter freely workplaces liable to inspection, under the terms and conditions set out in Article 12.***

5. *Articles 10, 11 and 20. Financing the human, material and logistical resources necessary for the effective operation of labour inspection and preparation of an annual inspection report.* With reference to its previous observation, in which it noted that a multinational cooperation project had been launched to strengthen labour administrations in the countries of the region (ILO/FORSAT), the Committee notes with interest, according to information provided recently by the ILO Regional Office, that a new information system on labour inspection is being established. This system should make it possible to provide the Office with detailed statistics. The Committee also notes that, in accordance with the General Act on labour inspection of 2006, the Ministry of Labour and Employment Promotion, regional governments and the competent public administration agencies will ensure that the labour inspection system has at its disposal, sufficient human resources, offices, premises, materials and equipment. Where there are no appropriate public means of transport, the necessary means of transport will be provided and travel and other incidental expenses

arising from the discharge of their inspection functions will be reimbursed, in accordance with the provisions of the Convention. The Committee however notes that, under the terms of the final and transitional provisions of the Act (point 5), the scale of remuneration of labour inspectors whose employment relationship is governed by private law will only be modified in accordance with the availability of the corresponding budgetary allocations. ***It requests the Government to provide information on the budgetary provisions adopted or envisaged to give full effect to this provision and to indicate whether it is explicitly planned to harmonize the status of labour inspection personnel so as to secure for all inspectors the guarantees provided for in Article 6 of the Convention.***

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

Portugal

Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

The Committee notes the Government's report for the period ending on 31 May 2005 and the replies to its previous comments. It also notes the inspection reports for the years 2002 to 2005 and the recently adopted laws: Act No. 99 of 27 August 2003 issuing the Labour Code and Act No. 35 of 29 July 2004 amending Legislative Decree No. 171 of 17 July 2004 on the structure of the Ministry of Social Security and Labour and the creation of the Institute for Occupational Safety, Health and Hygiene (to replace the IDICT), Legislative Decree No. 8 of 6 January 2005 on the organizational structure of the Ministry of Economic Activities and Labour, Legislative Decree No. 79 of 15 April 2005 on the structure of the Government, which creates the Ministry of Labour and Social Solidarity, Regional Regulatory Decrees No. 27-A of 28 August 2003 and No. 38-A of 11 December 2004, relating respectively to the structure of the regional secretariat for education and culture of the autonomous region of the Azores and the administrative structure of the regional government of the Azores.

The Committee notes with interest the various decisions of the Constitutional Court and the courts of appeal of Lisbon, Evora and Porto imposing fines on enterprises for breach of the legal provisions on working hours, safety at work, leave, freedom of association, etc. The Committee lastly notes the comments made by the Portuguese Confederation of Tourism, the General Workers' Union (UGT) and the Confederation of Portuguese Industry (CIP) on the application of the Convention, sent by the Government with its report, and of the Government's views on the matters raised.

The Portuguese Confederation of Tourism believes that it is time to remedy the notorious failure to punish breaches of labour law and that the problem facing the country is a lack of information and of effective measures to end prevarication. Furthermore, the law should be implemented as part of a policy of prevention, an aspect hitherto neglected in favour of a policy of inspection and supervision. Lastly, although the creation of independent institutions to train labour inspectors is very important, it is a matter worth debating only if the human resources are there to cover the needs.

Though it welcomes the increase in the activities of the general inspectorate and the reduction in child labour and the number of fatal occupational accidents in all sectors of economic activity, the CIP, like the Portuguese Confederation of Tourism, regrets that the measures taken by the General Labour Inspectorate still focus more on sanctioning than on educating and informing.

The UGT is of the view that special attention should be paid to offences concerning the register of temporary work contracts, false self-employment, temporary work, false absences (including alleged sick leave), breaches of the rules on hours of work, unlawful overtime and even unpaid overtime, and arbitrary dismissals. Although it regrets that the strength of the inspectorate was reduced from 294 in 2003 to 280 in 2004, the UGT nonetheless welcomes the increase in the number of inspections and is in favour of further intensifying them. It believes that although human and material resources need to be increased, it is equally important that measures be taken to ensure that inspectors are able to interpret the law properly because of its complexity and shortcomings, which are frequently pointed out. The CGT believes that it ought to be possible for the unions to follow inspectors' work more closely and to have better access to information on the inspectorate's current activities and relevant forums for tripartite dialogue.

The Committee observes that, for the most part, the organizations' comments concern matters that were already examined at the 1998, 1999 and 2003 sessions.

1. *Article 3, paragraph 1(a) and (b), of the Convention. Supervisory and preventive functions of the labour inspectorate.* The Committee notes with interest the information in the annual inspection reports showing that the provision of information and technical advisory services evolved significantly in the period from 2001 to 2004, particularly in "Citizens' Centres". It also notes the increase in the total number of inspections during the same period and points out that, as it said in paragraph 85 of its General Survey of 2006 on labour inspection, the abovementioned provision gives the same importance to information and advice to employers and workers concerning the most effective means of complying with the relevant legal provisions, the two functions being inextricably linked and representing the two key aspects of labour inspection. ***The Committee would be grateful if the Government would continue to provide information on developments in the advisory and informative role played by the labour inspectorate.***

2. *Article 5(b). Cooperation with employers and workers. Further to its previous observation, in which it noted the signing of an agreement in February 2001 with the social partners of an agreement on working conditions, occupational health and safety and occupational risk control, the Committee would be grateful if the Government*

would provide detailed information on progress in the activities carried out under the agreement. Please also provide information on any new measures taken or envisaged to encourage cooperation and dialogue between the inspection services and the social partners, and state the areas covered by such cooperation.

3. *Articles 7, paragraph 3, 10 and 11. Strengthening of the staff of the inspection service, and expansion of its areas of action and material resources.* The Committee notes with interest, the establishment in 2004 of the National School for Labour Inspection, Studies and Training, the aim of which is to develop the professional skills needed for inspection activities. It also notes that, according to the Government, the annual continuous training programme for inspectors is set according to needs and priorities. Furthermore, in 2004, 34 inspectors, five of whom were assigned to the Azores regional inspectorate, underwent training in order to graduate from labour inspector to technical inspector which consisted of 90 hours of theory and 40 hours of practical training over a two-month period. On the subject of continuous training for labour inspectors, the Committee notes that between 2002 and 2005, various courses and seminars were held on subjects such as the drafting of activity reports on occupational safety and health; chemical and biological risks; the Labour Code and its regulations; safety of machinery; prevention of risks; document management; and labour law.

With regard to the strength of the labour inspectorate, the Committee notes that of the 538 posts budgeted for inspectors for the years 2001–05, only 261 were filled in 2001, 257 in 2002, 294 in 2003, 280 in 2004 and 266 in 2005. **The Committee requests the Government to explain why the number of serving inspectors dropped between 2003 and 2005 and to provide information on any measures taken or envisaged to fill the vacant posts in the inspectorate.**

4. *Article 18. Appropriate and effectively applied penalties.* The Committee notes the system of penalties established in articles 614–689 of the Labour Code, the various court decisions regarding the imposition of penalties for violations of the legal provisions enforceable by labour inspectors and the statistics on offences committed and penalties imposed from 2002 to 2005. **However, the Committee would be grateful if the Government would give any views it deems relevant on how it ensures that labour inspectors fulfil their ethical obligations in performing their enforcement duties. Please also provide information on any measures taken to ensure that inspection activities, legal actions brought and sanctions imposed are given sufficient publicity to strengthen the credibility of the profession.**

The Committee is addressing a request directly to the Government on other matters.

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1983)

The Committee notes the Government's report for the period ending on 31 May 2005, the legislation, the annual inspection report for 2005 and a detailed report on the application of the Convention in the Autonomous Region of the Azores, where the main economic activity is agriculture. It further notes the new comments on the application of the Convention made by the General Workers' Union (UGT) and the Portuguese Confederation of Tourism, sent to the ILO with the Government's report. The Committee notes that in its new comments, the UGT repeats in part the observations sent to the ILO on 9 September 2002. The Committee notes that the Government has not given its views on the abovementioned observations and hopes that it will not fail to do so in its next report and that it will be in a position to report progress in the application of the Convention. **Since the comments of the Portuguese Confederation of Tourism likewise concern the application of the Labour Inspection Convention, 1947 (No. 81), the Committee requests the Government to refer to its observation under that Convention. Please also provide additional information on the following points.**

1. *Article 17 of the Convention. Preventive control of new plant, activities, manufacturing processes and the handling of new products and substances.* Referring to its previous comment that measures were needed to ensure that the labour inspection services in agriculture are associated with the preventive control of new plant, new substances and new methods of handling or processing products which appear likely to constitute a threat to health or safety, the Committee takes note of the Government's view that to ensure that risks are eliminated, the labour inspectorate should be invited in by the establishment and begin its intervention at the project phase. Pursuant to article 10(1)(g) of Legislative Decree No. 102/2000 issuing the General Regulations of the Labour Inspectorate, labour inspectors carry out joint visits with a view to delivering permits for the setting-up, modification and operation of establishments, and the report on the application of the Convention in the Autonomous Region of the Azores mentions an increase in inspection activities in agriculture during periods of intensive machine use. **The Committee requests the Government to provide information showing how these provisions are implemented in practice in agricultural enterprises in order to prevent the occupational risks inherent in new plant, new substances and new methods of handling or processing products.**

2. *Article 27. Content of annual inspection reports.* The Committee notes with satisfaction that the annual inspection reports for the years 2004 and 2005 contain statistics of agricultural undertakings liable to inspection and the number of persons working in them (*point (c)*), such data being essential in order for the central inspection authority to assess how effective the labour inspection system is. **However, the Committee requests the Government to ensure that such information is supplemented by statistics on the causes of occupational accidents and diseases in agriculture (*points (f) and (g)*), such information being particularly useful to the development of a policy of prevention.**

The Committee notes the Government's statement that individual annual inspection reports are envisaged for the two autonomous regions of the Azores and Madeira. **The Committee hopes that such reports will be published shortly and will cover all the items under Article 27, and that a copy will be duly sent to the ILO.**

Russian Federation

Labour Statistics Convention, 1985 (No. 160) (ratification: 1990)

The Committee notes the Government's report for the period ending June 2005.

Article 8 of the Convention. Statistics of the structure and distribution of the active population. Further to its previous comments (1996 and 2000), the Committee notes with satisfaction the availability through the All-Russian Census of the population, 2002 (VPN 2002), of statistical data on the active population and its structure. The documents published by the Federal State Statistics Service (Rosstat) contain statistics on the active population employed or unemployed and the information is disaggregated by sex, age, educational level, place of residence – whether urban or rural – and by geographical region; data on employment is also broken down on the basis of socio-economic status, economic sectors and occupations of the population. ***The Government is requested to supply, as soon as possible, the data and methodology information required by Articles 5 and 6 of the Convention.***

The Committee also notes with satisfaction that *Article 9(2)* is now fully applied and that a revised national classification of occupations in line with the European Union NACE, Rev.1, and ISIC, Rev.3, classifications was adopted in 2005. ***It trusts that statistics on average earnings and hours of work, drawn up in conformity with the new OKVED classification will be supplied to the Office.***

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

Rwanda

Labour Inspection Convention, 1947 (No. 81) (ratification: 1980)

The Committee notes the information contained in the Government's report, received in September 2005, and the statistics tables attached to its report on non-ratified labour instruments, received in May 2005.

1. *Decentralization and determination of resources for decentralized structures.* In its previous comments, the Committee repeatedly warned the Government that the decentralization of this function ran the risk of causing the deterioration of a situation characterized by a general and chronic inadequacy of resources, such as is brought to light in the information communicated. In its 2002 observation, the Committee pointed out several of the numerous reasons why it is important to place labour inspection under the supervision and control of a central authority, one being that this enables available resources to be shared between different services on the basis of identical criteria throughout the country, so as to ensure the same level of protection for all the workers covered. The Committee also expressed the hope that the steps taken, with ILO support, to find donors would make it possible to begin the process of establishing a labour inspection system consistent with the provisions of the Convention.

In its report for the period ending 1 September 2003, and without mentioning any developments in this regard, the Government indicated the adoption, by means of the Act of 30 December 2001, of a new Labour Code and emphasized its innovative aspects. The Government also declared that proper note had been taken of the Committee's observation and that it would undertake to do its utmost to remedy the situation.

In 2003, the Committee requested information on measures taken with the support of international financing and ILO technical assistance to improve the human and material resources of the inspection services, in accordance with *Articles 10 and 11 of the Convention*, and on the maintenance of a central labour inspection authority, in accordance with *Article 4, paragraph 1*.

In its 2005 report, the Government confirmed the direct attachment of the labour inspectorate of Kigali to the office of the mayor of the town and the attachment of the labour inspectorate in each province to the office of the competent prefect, its justification for this choice being the requirements of decentralization policy and, in its opinion, the requirements of Article 4. Nevertheless, according to the report, the provincial structures continue to receive instructions of a technical nature from the Minister for Labour, who is responsible for the monitoring and assessment of labour inspection activities.

With regard to the fundamental issue of the human and financial resources of the labour inspectorate, the report indicates that these remain insufficient, but that this problem is common to all state services.

From the Committee's point of view, the instructions of a technical nature issued by the Minister for Labour and addressed to the provincial labour inspection services strongly risk remaining a dead letter if the budget allocated to labour inspection depends on the decision of the prefect in each province. There is a risk that available resources differ substantially from one province to another, thus influencing not only the volume and quality of inspection activities, but also the ability of inspectors and local inspection offices to fulfil their obligations to report to the Minister, such as are envisaged in *Article 19*, so as to enable him to exercise his prerogatives in respect of monitoring for the purposes of general assessment. Detailed information on the budgetary aspect of labour inspection is indispensable to the Committee if it is to assess the impact of the decentralization of labour inspection in terms of the objectives of the Convention. In this respect, the Committee draws the Government's attention to the explanation, in paragraph 140 of the 2006 General Survey, of the scope of the flexibility clauses in *Article 4*, i.e. that the designation of a central authority in each constituent

unit of a federal State is only possible if these units have the budgetary resources intended for use in implementing the functions of the labour inspectorate within their respective jurisdictions. The decentralization of labour inspection to regional or local administrative authorities would therefore be inconsistent with the Convention if it were not an obligation for the authorities to institute a system to allow the labour inspectorate to function and to provide adequate budgetary resources. *In order to allow the Committee to assess the development of the situation regarding the labour inspection system following its attachment to the provincial authorities, the Committee asks the Government to provide the following: (1) a copy of the text(s) by virtue of which the decentralization of this institution was decided and implemented; and (2) information on:*

- (a) *the budgetary origin of resources allocated to the provincial labour inspection services, the arrangements for determining these resources and the arrangements for their distribution in terms of inspection staff, equipment and means of transport between the various provincial structures and the town of Kigali;*
- (b) *the scope of the powers of provincial prefects in terms of the creation and suppression of inspection services;*
- (c) *the geographical distribution of inspection offices and staff throughout the country.*

2. *Conditions of service of inspection staff and obligations of inspectors.* The Committee notes the Government's indications in response to its previous comments, according to which labour inspectors are governed, like other state employees, by Act No. 22/2002 of 9 July 2002 issuing the general conditions of service for Rwandan public servants. *The Committee would be grateful if the Government would indicate the manner in which it is ensured that public servants responsible for carrying out labour inspection activities in the sense of the Convention will continue to benefit, under the authority of provincial prefects, from conditions of service which guarantee them stability of employment and the independence required by their duties (Article 6).*

The Government is also asked to communicate information on the arrangements and criteria for selecting and recruiting labour inspectors, on the arrangements for their appointment (Article 7), and on the manner in which employers and workers will be assured that inspectors are bound by the prohibitions and obligations relating to confidential information (Article 15).

The Committee is addressing a request directly to the Government on other matters.

Sao Tome and Principe

Labour Inspection Convention, 1947 (No. 81) (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:

The Committee notes the Government's incomplete replies to its previous comments and the two reports on labour inspection attached thereto.

Article 14 of the Convention. The Committee would be grateful if the Government would take prompt measures to ensure that the labour inspectorate is informed of industrial accidents and cases of occupational disease in such cases and in such manner as may be prescribed by national laws or regulations, and provide relevant information.

Articles 20 and 21. The Committee notes that the inspection reports sent by the Government fall short, both in form and in substance, of the requirements set by the Convention. *The Committee once again expresses the hope that the Government will soon be able to report that measures have been taken to ensure that the central inspection authority has fulfilled, if necessary with ILO technical assistance, the obligations laid down by the above provisions of the Convention.*

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

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

Singapore

Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)

The Committee notes the information contained in the Government's report for the period ending May 2006 on the strengthening of the inspection system, the results of its activities and the use made of the data acquired with a view to achieving greater effectiveness in terms of prevention.

1. *Inspection of occupational safety and health conditions and collaboration with the social partners.* The Committee notes with interest that the occupational safety and health inspection framework has been reformed with a view to responding in an appropriate manner to the problems demonstrated by the high numbers of industrial accidents. It further notes that it is planned to strengthen the numbers of inspectors, who currently number 173 officials, consisting of general inspectors (89), specialists in construction and safety engineering (16), occupational medicine (10), occupational hygiene (11) and risk management (5), with a view to expanding the staff strength to around 280 in the near future. The Government indicates that it launched a programme in March 2006 targeting four priority high-risk areas; scaffolding, confined spaces, metalworking and falls from heights, with a view to reducing the risk of fatal accidents. Furthermore, high-risk factories are monitored through various surveillance programmes.

The Committee also notes that the Workplace Safety and Health (Incident Reporting) Regulations prescribe new requirements for the notification of accidents, cases of occupational disease and dangerous occurrences at all workplaces. It notes with satisfaction that these requirements are intended to improve the relevance of the information gathered from notifications so that lessons can be learned for the future and hotspots can be rapidly identified and remedied.

The Committee notes with interest that the inspection services responsible for occupational safety and health hold a regular dialogue and work in close partnership with employers and workers in the Workplace Safety and Health Advisory Committee (WSHAC), which is composed of representatives from industry, employees, employers, members of academia and advisers from the legal, insurance and training fields, as well as in the various advisory subcommittees which offer advice and make recommendations to develop a safer and healthier workplace.

2. *Inspection of general conditions of work.* The Committee notes the detailed information on the composition of the inspection staff responsible for terms and conditions of employment and the activities undertaken during the period covered by the report. In particular, it notes with interest that the inspection services handle a large number of requests for information and advice from employers and workers by telephone and in writing.

The Committee is addressing a request directly to the Government on one point.

Sri Lanka

Labour Inspection Convention, 1947 (No. 81) (ratification: 1956)

The Committee notes the Government's brief report for the period ending May 2005, its replies to the Committee's previous comments and the annual report of the labour inspection service for 2004–05. It also notes the communication by the Government on 17 November 2005 of comments on the matters raised by the World Confederation of Labour (WCL) in September 2005.

1. *Action to improve the organization and operation of the inspection system.* With reference to its previous comments, the Committee awaits information on the continuation of the restructuring of the Department of Labour and its agencies with ILO support. It notes that, in accordance with the document "Sri Lanka Future Directions", the emphasis of labour inspection will move towards prevention and improvement rather than enforcement and penalties. ***It requests the Government to indicate the consequences in practice of this change of approach in relation to the discharge of inspection functions and their results and to provide a copy of the document organizing the restructuring of the Ministry of Labour, and of any document setting out the new arrangements for the operation of the labour inspection system.***

2. *Article 10 of the Convention. Labour inspection staff.* According to the WCL, the labour inspectorate suffers from a severe shortage of inspection staff in relation to the increase in the number of workplaces liable to inspection and under one-third of employers pay their contributions to the Employees' Provident Fund. It adds that there has been a persistent shortage of qualified engineers and occupational hygienists to carry out routine inspections of industrial enterprises, particularly those in which hazardous substances are used or handled. The Committee notes that the Government refutes these allegations and considers that it is incorrect to say that there is a severe shortage of inspection staff and that it affirms that half of employers pay their contributions to the Employees' Provident Fund. ***The Committee would be grateful if it would provide detailed information on the distribution by geographical area and competence of the labour inspection personnel and on the geographical distribution of the number of workplaces liable to inspection and the numbers of workers employed therein, with an indication of the progress achieved in recovering the social contributions that remain due from half of employers.***

3. *Article 8. Appointment of both men and women to the staff of the labour inspectorate.* The Committee notes that with the establishment of the Gender-Bureau under the Ministry of Labour Relations and Foreign Relations, four women Assistant Commissioners have been appointed to Colombo and Gampaha District Labour Offices. ***The Committee requests the Government to indicate the impact of this measure on the operation of the labour inspectorate.***

4. *Article 12, paragraph 1(a) and (b). Right of labour inspectors to enter freely workplaces liable to inspection.* While noting the legislation and information on the rights exercised in practice by labour inspectors during inspections, the Committee once again draws the Government's attention to the importance for the effectiveness of the inspection and to prevent measures to conceal a violation of a legal provision explicitly authorizing inspectors to exercise the right to free entry into workplaces without previous notice, as established by the Convention. It is necessary to affirm the principle of the generally unannounced nature of inspections to enable inspectors to observe the confidentiality required with regard to the purpose of the inspection if it is carried out in response to a complaint, as well as to maintain the source of the complaint confidential (see in this respect, the General Survey on labour inspection of 2006, paragraph 263). Noting the suggestion by the Lanka Jatjhika Estate Workers' Union that labour inspectors should be able to use their individual identity card issued by the Department of Labour to gain access to workplaces in export processing zones without prior authorization, the Committee reminds the Government that the provision of proper credentials is a requirement of *Article 12* of the Convention which should enable inspectors, in practice, to enter freely and without previous notice any workplace liable to inspection or which they may have caused to believe to be liable to inspection. ***Since, according to the Government, workplaces in export processing zones are not excluded from the supervision of labour inspectors but,***

according to the above union, as they are highly secured, access to such workplaces is subject to prior permission, the Committee would be grateful if the Government would take the necessary measures to bring the legislation into conformity with the Convention in relation to: (i) the issuing to labour inspectors of a professional identification document and the obligation for them to carry the document during any inspection; and (ii) the extent of the right of inspectors to enter workplaces freely.

The Government is also requested to provide information on: (i) the security considerations which, in its view, justify the access of inspectors to workplaces in export processing zones being subject to prior permission; and (ii) the procedure to apply for and obtain such permission.

5. *Article 13. Powers of injunction of labour inspectors.* With reference to its previous comments, the Committee notes that the legislation does not appear to empower labour inspectors to have made orders intended to remedy the effects observed in plant, layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers. *Noting that new legislation on health and safety is being finalized, the Committee hopes that measures have been taken to fill this legal void through measures giving full effect to each of the provisions of this Article. It would be grateful if the Government would provide a copy of the draft legislation or the definitive text if it has been adopted and, if such provisions already exist, if it would also supply the relevant text to the ILO.*

6. *Article 9. Health and safety, collaboration of experts.* The Committee notes with interest that an institute on occupational safety and health has been set up to undertake policy development, research, prepare publications, organize tripartite training, provide advisory services and generally raise awareness of occupational safety and health. *The Committee would be grateful if the Government would provide copies of the texts relating to the establishment and operation of this institute, and on its activities in relation to the labour inspection system.*

7. *Article 11, paragraph 1(b). Travelling allowances.* With reference to its previous comments and the observations made by the Lankha Jatjhika Estate Workers' Union on 23 October 2003 concerning the inadequacy of the travelling allowance accorded to labour inspectors, the Committee emphasizes the need to take measures to provide inspectors with the transport facilities that are indispensable to the discharge of their functions. *It requests the Government to take such measures, to keep the ILO informed and to indicate any difficulties encountered in this respect.*

8. *Article 18. Dissuasive sanctions.* The Committee notes with interest that the amount of fines for violations of the Employment of Women, Young Persons and Children Act were increased by Act No. 8 of 2003. *Drawing the Government's attention to paragraph 295 of its General Survey concerning the need for the amount of fines to be regularly adjusted to take account of inflation if penalties are to have a generally deterrent effect, the Committee would be grateful if the Government would indicate whether it is envisaged adjusting the amount of fines for violations of the legal provisions relating to conditions of work contained in other texts for which the labour inspectorate is responsible for enforcing compliance.*

9. *Article 21. Statistics and the publication of the annual report on labour inspection activities.* The Committee notes with interest that multidisciplinary inspections have led to the identification of around 30 per cent of new workplaces and that action is being taken to update the master register of workplaces. *With reference to an earlier report by the Government and its observation in 1999, in which it noted that separate statistics on the number of workplaces liable to inspection in export processing zones and the number of inspections made were not yet available, but that they would be compiled and the data provided, the Committee requests the Government: (i) to indicate whether this information is available and, if so, to provide it; (ii) to ensure that the annual inspection report includes statistics on the violations committed, the penalties applied and cases of occupational disease, in accordance with Article 21; and (iii) to ensure that such a report is published, as required by Article 20.*

Sudan

Labour Inspection Convention, 1947 (No. 81) (ratification: 1970)

The Committee notes the Government's report received in November 2005 in reply to its previous comments and the information on recent institutional developments in general and the labour administration in particular.

1. *Institutional and legislative reform.* The Committee notes the conclusion of a global peace accord in January 2005, the adoption of a provisional Constitution and the establishment of a Government of national unity. It notes with interest that an in-depth revision is envisaged in this context of the structures of public services, including the labour inspectorate, and of the texts governing their operation, including the status of inspectors, with a view to increasing their motivation for the discharge of their functions. The Committee also notes with interest the establishment of a Federal Labour Statistics and Information Centre for the compilation and publication of regular reports, including a report on labour inspection. *Further noting that it is planned to introduce relevant amendments in the Labour Code, the Committee remains attentive in relation to current developments and requests the Government to provide information on any institutional and legislative progress achieved in relation to the establishment and implementation of a system of labour inspection that is in conformity with the provisions of the Convention.*

2. *Strengthening of decentralized structures.* The Committee notes with interest the announcement by the Government of the reinforcement in the near future of the human and material resources of existing labour offices and the establishment, in the south of the country and in other regions affected by the civil war, of labour offices with the necessary personnel and equipment to discharge their functions. ***The Government is requested to provide information on the progress achieved in relation to this project and to supply in future reports an updated list of the regional and local labour inspection structures in labour offices, as well as information on their means of action.***

3. *Child labour.* Noting that a request for technical assistance was made to ILO/IPEC in 2004 with a view to the preparation of a full study on child labour and the organization of training workshops for the labour inspectors concerned, the Committee awaits information on the action taken as a result, when the conditions so permit. ***It would be grateful if the Government would keep the ILO informed of any new measures adopted for this purpose, and the results achieved.***

4. The Committee also notes the indication of an urgent need for technical and logistical assistance expressed by the service responsible for work by women and children in the Ministry of Labour, with a view to the extension of its activities to regional and local labour offices. ***The Committee hopes that measures will be taken rapidly by the Government to seek the necessary resources for the provision of the required assistance in the context of international cooperation, where necessary with the technical support of the ILO. It requests the Government to provide information on any progress achieved in this respect, and on any difficulties encountered.***

Sweden

Labour Statistics Convention, 1985 (No. 160) (ratification: 1986)

The Committee notes the Government's report for the period ending June 2005 and the information provided in reply to its previous comments.

In particular, the Committee notes with satisfaction that, further to the suggestion that it made in the light of the progress achieved in the compilation of statistics of labour costs, in January 2006 the Government accepted the obligations under *Article 11* in accordance with *Article 16, paragraph 3, of the Convention*, by notification to the Director-General of the ILO.

The Committee also notes with interest the efforts made by the Government to improve the quality and coverage of the statistics compiled on household income and expenditure in accordance with *Article 13*.

Switzerland

Labour Statistics Convention, 1985 (No. 160) (ratification: 1987)

The Committee notes the Government's report concerning developments in the application of the Convention, the information supplied in reply to its previous comments and the attached statistics and corresponding methodological information.

In particular, it notes with satisfaction that *Article 9* is now fully applied, with statistics on normal hours of work being compiled annually on the basis of reports of injuries to workers, while statistics on minimum wages and wage rates are derived from the survey of collective labour agreements (CCT) and classified by skills level and branch of activity.

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

Syrian Arab Republic

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1972)

The Committee notes the Government's report and the annual report on the work of the labour inspection system in agriculture for the year 2003. It notes with interest the adoption of Act No. 56 of 2004 on labour relations in the agricultural sector which contains provisions regarding labour inspection in agriculture and the work of women and children. ***The Committee requests the Government to keep the ILO informed of progress in the instructions needed in order for these provisions to be implemented which, according to the report, are being drafted. Please provide a copy of any final texts.***

The Committee raises other matters in a request addressed directly to the Government.

Turkey

Labour Inspection Convention, 1947 (No. 81) (ratification: 1951)

The Committee notes the Government's report for the period ending in May 2005, in reply to its previous comments, particularly concerning the points raised by the Confederation of Progressive Trade Unions of Turkey (DISK), the Turkish Confederation of Employers' Associations (TISK) and the Turkish Confederation of Public Workers' Associations

(Türkiye Kamu-Sen) in their respective observations, received by the Office on 22 October 2003. The Committee notes that the Government forwarded in an annex to its report the observations submitted by TISK, the Confederation of Trade Unions of Turkey (TÜRK-İS) and DISK on the application of the Convention, the annual reports on the activities of the labour inspectorate of 2002 and 2005 and the report on the joint ILO/IPEC project of 2005. Finally, the Committee notes Act No. 4947 of 16 July 2003 on the organization of the Social Security Institute.

1. *Article 6 of the Convention. Status and independence of labour inspectors.* The Committee notes that the issue of the right to organize of labour inspectors is also raised by DISK in its observation, as well as by the trade union organizations under Convention No. 87 and it therefore refers to its comments under the instrument.

2. *Article 2. Developments of the scope of labour inspection.* Previously in its observation of 2002, the Committee noted the measures taken by the Government to extend the coverage of the labour inspection system so as also to protect workers engaged in establishments in the informal economy, and it requested the Government to provide additional information on the impact of labour inspections by geographical area in compliance with the legislation in those establishments. In this respect, the Government indicates that all officials inspecting an establishment for whatever reason (for example, tax inspections) is also bound to verify that all workers are declared for social purposes and to notify the findings to the social insurance institution. Circular No. 2003/19 of 26 March 2003 emphasizes the importance of this issue and encourages the officials concerned, including labour inspectors, as well as other officials, to discharge this function scrupulously, thereby showing the importance that the Government attaches to supervising enterprises in the informal economy. The Committee notes with interest that the registration of enterprises and workers is also carried out through controls in the framework of the ILO/IPEC project, which led to the registration in 2004 and 2005 of an additional 1,758 enterprises. With reference to the observations submitted by TISK that the burden of inspection only falls on legally registered enterprises, the Committee welcomes the significant measures taken by the Government to generalize the registration of establishments, which also makes it possible for the labour inspection to cover the greatest possible number of workers. ***The Committee would be grateful if the Government would continue to provide information on the progress achieved in this respect and on inspection in practice by geographic zone and by sector.***

3. *Article 5(b). Collaboration between the labour inspection services, employers and workers.* The Committee notes with interest that a tripartite committee entrusted with determining inspection activities to combat child labour and to evaluate them in order to improve them has been established under the ILO/IPEC project, and that similar committees have been established at the provincial level. However, the Committee notes that the Government did not provide any information on the measures taken to encourage the institutionalization of tripartite collaboration to improve the operation of the labour inspection services in other areas fields of its competence. ***The Committee refers in this respect to paragraphs 163–172 of the 2006 General Survey on labour inspection and once again requests the Government to take the relevant measures and to keep the ILO informed in this respect.***

4. *Articles 3, paragraphs 1(a) and (b), 10, 11 and 16. Human and logistical resources of the labour inspectorate.* With respect to the number of labour inspectors, the Committee notes that, despite the recruitment of 86 new labour inspectors in 2002, according to the relevant tables in the annual report of 2005, the total number of labour inspectors has decreased significantly. In the view of DISK, the level of staff is limiting inspection activities to covering complaints and to merely sending letters to the concerned employers. In the opinion of DISK, the considerable efforts made by the labour inspectors to cope with the needs are fruitless, as their means of action are derisory in view of the investigating powers that should be vested in them by law, in accordance with *Article 12* of the Convention. It also considers that, in the same way as TÜRK-İS, the ineffectiveness of the labour inspection is aggravated by the lack of means of transport and equipment. The Committee notes, as does TISK, that the reinforcement of labour inspection capacities should continue to be a priority in the process of achieving the *aquis communautaires* as defined by the European Union. In this regard, TISK points out that the framework document for access to the European Union, published on 29 June 2005, provides for an increase in the number of labour inspectors and their training. ***The Committee hopes that the Government will soon be able to report progress in this respect. It also asks the Government to specify the manner in which it envisages strengthening the resources, transport facilities and equipment necessary for the effective discharge of the inspection functions, including the provision of information and advice to employers and workers, the scheduling of routine inspections based on predetermined criteria and on-the-spot inspections in response to complaints and denunciations.***

5. *Labour inspection and child labour.* The Committee notes once again with interest the development of institutional measures and labour inspection activities aimed at combating child labour effectively, and the results achieved, particularly in terms of integration and reintegration into the educational system, not only for the working children themselves but also for their brothers and sisters, and the monitoring of these children by the tripartite committees mentioned above. ***The Committee would be grateful if the Government would continue to provide information on all developments in this area.***

Ukraine

Labour Statistics Convention, 1985 (No. 160) (ratification: 1991)

The Committee notes the Government's report for the period ending in May 2005 and the replies to its previous comments. It notes with satisfaction that full effect is now given to *Article 8*, a census of the entire population having been carried out in 2001.

The Committee is addressing a request concerning other matters directly to the Government.

United Kingdom

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

The Committee notes the Government's report and the copies of the numerous laws and regulations on occupational safety and health adopted during the period covered by the report.

1. *Article 5(a) of the Convention. Cooperation between the labour inspection services and other services and institutions.* The Committee notes with interest the information on the various agreements and protocols concluded between the Health and Safety Executive (HSE), the Health and Safety Commission (HSC) and other government departments and services with a view to improving the application of the Convention.

2. *Article 5(b). Collaboration between the labour inspectorate and employers' and workers' organizations.* The Committee also notes with interest that, in accordance with this provision, since early 2005, the HSE has developed collaboration with the social partners in the context of a new programme intended to improve the quality and quantity of worker involvement in health and safety risk management with a view to prevention. This collaboration gives effect to the commitments made by the HSE in its Collective Declaration on worker involvement of 2004, the text of which can be viewed on the web site: www.hse.gov.uk/workers/involvement/involvement.pdf. The Government indicates that an early result has been the joint revision of web pages by the HSE and the Trades Union Congress (TUC) on the site www.hse.gov.uk/workers, which provides workers with information and advice to help them become more involved in health and safety decision-making. ***The Committee hopes that, as announced by the Government, this collaboration will enable the partners to exchange information on the benefits of worker involvement for workers and employers alike and will encourage more workers to become workplace health and safety representatives.***

3. *Labour inspection and work by children and young persons.* The Committee takes due note of the developments during the period covered by the Government's report in this field of the activity of the labour inspectorate. It notes with interest the development of initiatives, including those on the Internet, and the production of video packs, and the activities of inspectors in schools and universities to increase awareness among young persons on occupational risks and their prevention. In particular, the Committee notes with satisfaction the initiatives taken with very young children in the context of the pilot project "Risk Watch Initiative", which seeks to raise awareness among children of potential risks to health and security in everyday life so as to encourage greater understanding of occupational risks when they reach working age.

Jersey

Labour Inspection Convention, 1947 (No. 81)

The committee notes with interest the information provided in reply to its previous comments and the annual activity report of the Health and Safety Inspectorate for 2004, which was communicated in accordance with *Article 20 of the Convention*. It also notes with interest that the coverage of the services of the Health and Safety Inspectorate includes all workplaces, including the establishments and services covered by the 1995 Protocol.

1. *Article 3 of the Convention. Functions of the system of labour inspection, provision of technical information and advice to employers and workers.* The Committee notes with interest the significant volume of information and advisory services provided by the Health and Safety Inspectorate, including replies to telephone queries (3,000 in the year 2005). It also notes that, with a view to remedying the increase in the number of occupational diseases related to asbestos, a new code of practice was introduced on 1 January 2005 to provide employers with information on measures to give effect to the provisions of the Health and Safety at Work (Jersey) Law, 1989.

2. *Article 5(b). Effective collaboration between the inspectorate and employers and workers.* The Committee notes with interest that the close collaboration with the Jersey Council for Safety and Health at Work, the Jersey Occupational Health and Safety Association, as well as with the Major Contractors' Group of the Jersey Building and Allied Trades Employers' Federation, has resulted in a decrease in the number of employment accidents, particularly through actions such as the scheme to increase awareness among persons who work on and visit construction sites.

3. *Article 14. Notification to the labour inspectorate of industrial accidents and cases of occupational disease.* The Committee notes with satisfaction the information on the web site of the Health and Safety Executive that a new computer system has been developed in the Employment and Social Security Department to process claims for compensation, with the result that the compilation of statistics on industrial accidents and occupational diseases is now computerized. In

addition, this system allows the labour inspectorate to conduct more in-depth surveys of their causes. The annual inspection review indicates that the information provided through this system has already been used by the inspectorate to review the manner in which employers should approach the management of occupational health.

4. *Article 20. Publication of an annual inspection report and other relevant information.* The Committee finally notes with satisfaction the publication and dissemination on the Internet of the annual report on the activities of the Health and Safety Inspectorate, as well as a large volume of information on the working methods of the Inspectorate and guidance for the use of workers and employers. The dissemination of this information offers greater transparency with regard to the operation of the Inspectorate, and therefore an opportunity for the social partners, as well as any other public or private institution concerned, to express their views for its improvement.

The Committee is addressing a request directly to the Government on one issue.

Uruguay

Labour Inspection Convention, 1947 (No. 81) (ratification: 1973)

The Committee notes the Government's report for the period ending 31 May 2005, the information provided in reply to its previous comments and to the points raised by the Inter-Union Assembly of Workers–National Convention of Workers (PIT–CNT) in 2003 and by the Association of Labour Inspectors of Uruguay (AITU) in 2004, as well as the new comments by the PIT–CNT forwarded by the Government. The Committee also notes the communication of Decrees No. 186/004 (code of penalties) of 8 June 2004, No. 114/005 of 16 March 2005 establishing the National Advisory Council on Labour Inspection Policies and No. 67/999 of 12 March 1999 on the allocation of travel expenses to officials of the central administration.

1. *Articles 5, 7, 9, 10, 11 and 16 of the Convention. General situation of the labour inspection system; resources; collaboration and operation.* The PIT–CNT considers that the Government has always conspicuously failed in its obligations under the Convention (inadequate human and material resources in relation to needs, important shortcomings in the operation of the inspectorate, particularly with regard to supervising occupational safety and health). In a comment made in 2003, the PIT–CNT referred more precisely to the lack of computer equipment and consumables, such as fuel for the journeys of inspectors, ink cartridges for photocopiers, common office supplies, etc., the age of the available vehicles and the slowness of the procedures for the reimbursement of travel expenses to inspectors. It deplored the exclusively reactive approach to inspection in response to complaints by a trade union or following an industrial accident, and the absence of the planning of routine inspections. The PIT–CNT also denied that the professionals referred to by the Government had the capacity of technical experts and specialists within the meaning of *Article 9* of the Convention. According to the AITU, in a comment made in 2004, at the same time that the material conditions of work of the inspection services were declining and, in the absence of the necessary updating of their knowledge, inspectors were being entrusted with excessive responsibilities as a result of the dissolution of the National Port Services Administration (ANSE), but without the transfer of the corresponding assets and budget. In its recent comments forwarded by the Government referring to the change in the governing team, the PIT–CNT considered that the new approach based on tripartism in industrial relations gave grounds for hoping that there would be an improvement in the operation of the labour inspectorate.

In its report, the Government indicates that it has taken measures to strengthen the numbers and quality of the human resources of the labour inspectorate: the planned recruitment of 40 new labour inspectors for the Working Environment Conditions Division; the holding of competitions for career advancement and for the recruitment of at least 15 new inspectors for the General Working Conditions Division; and the recruitment of a chemical engineer and a statistical expert to support the inspection services on environmental working conditions. The Government indicates that the minimum qualifications and competence required for inspectors will henceforth be defined by protocol, and that the support of eight jurists, 25 administrative officials and other employees in the central labour administration should, according to the Government, also contribute to improving the quality of the work of the labour inspectorate.

With regard to the material resources of the inspection services, the Committee also notes the progress achieved or envisaged since March 2005: a substantial increase in the number of vehicles (from four to eight) and the planned acquisition of four-wheel drive vehicles to facilitate access to all enterprises, irrespective of their geographical location, the provision of fuel and the allocation of the necessary expense allowances for travel by labour inspectors. The Government also refers to a project for the computerization of inspection services and for publications useful to the social partners and other public institutions.

With regard to the repercussions of the dissolution of the ANSE for the workload of the labour inspectorate, the Government specifies that this institution operated as an employment exchange and not an agency responsible for supervising labour legislation, but that its disappearance does indeed result in an increased need for the presence of the inspection services to identify informal work in loading and unloading activities in ports, as well as conditions of work. According to the Government, there is a shortage of specific provisions relating to the port sector in this respect.

The Committee notes with interest the positive changes introduced rapidly by the Government to resolve the worrying situation of the labour inspectorate brought to its attention long ago by the trade union organizations. It remains

attentive with regard to further developments, particularly the implementation of the planned budgetary measures and their translation into practice through the recruitment of the personnel that is indispensable for the proper operation of the inspection system, and the strengthening of its logistical resources and office and computer equipment. ***It therefore requests the Government to continue keeping the ILO informed in detail, with the communication of any relevant documents, of all developments in this respect, the difficulties encountered and changes in the quantity and quality of inspection activities. It also requests the Government to indicate the measures adopted in practice to develop the necessary communication between the labour inspectorate, the social partners and other services and institutions concerned with its operation.***

2. *Article 6. Status and conditions of service of labour inspectors. Principle of the exclusivity of employment in labour inspection functions.* For several years, the Committee has been drawing the Government's attention to the incompatibility of exercising a parallel professional activity with the requirements of performing labour inspection functions. This incompatibility was emphasized by the PIT–CNT, which considered that the constraints of employment in the private sector are such that they do not allow labour inspectors to update their skills to the level necessary for the discharge of inspection functions.

The Committee notes with interest the Government's acknowledgment that parallel employment seriously undermines the energy necessary for the discharge of inspection functions and that it envisages remedying the situation through budgetary measures to improve the remuneration of labour inspectors. In response to the issue raised by the PIT–CNT concerning the disparity between the wages of tax inspectors and labour inspectors, the Government indicates that harmonization will be achieved in three stages, leading to the establishment of the principle of the exclusivity of their functions, which is already in force for officials of the Directorate General for Taxation. The Committee notes this information with interest and hopes that the budgetary measures to improve the level of remuneration of labour inspectors will take into account the significance of their socio-economic function and that they will no longer be compelled, to ensure their subsistence and that of their families, to engage in parallel employment in the private sector. The Committee wishes to emphasize once again that the function of labour inspection implies in practice that the officials engaged therein devote their full working hours and energy to their function, away from any improper external influences. A relationship of subordination with an employer is indeed likely to give rise to a conflict of interests jeopardizing the independence, authority and impartiality that are necessary to labour inspectors in their relations with employers and workers. Noting once again the Government's reference to a procedure under which labour inspectors are required to declare under oath their second employment, with an indication in their personnel file, it cannot overemphasize the importance of reconsidering the matter in view of the credibility and probity required of labour inspection personnel.

With reference to the disparity between the salaries of labour inspectors and the labour inspection officials originating from the PLUNA (the former air passenger transport enterprise which has been privatized), which was also raised by the CIIT and the PIT–CNT, the Government indicates that, if these officials are not included in the labour inspection budget and discharge their functions under individual contracts, this is because they have refused integration into the inspection staff at the lowest level of the career structure, which is the procedure in force to ensure that current officials are not prejudiced. It indicates that five-yearly budgetary provisions are being prepared with a view to resolving this problem. ***The Committee hopes that the Government will implement the measures envisaged rapidly with a view to improving and harmonizing the status and conditions of service and of advancement of labour inspectors, in accordance with the letter and spirit of the Convention, and that it will keep the ILO informed rapidly, particularly through the provision of the relevant documents.***

3. *Article 3, paragraph 1(c). Role of the labour inspectorate in the improvement of the legislation and tripartite collaboration for the development of labour policy and legislation.* The Committee notes with satisfaction the measures adopted by the Government to improve the labour legislation, including the establishment by Decree No. 114/005 of the Tripartite National Advisory Council for Labour Inspection Policy, chaired by the General Labour and Social Security Inspector, the responsibilities of which include promoting the adoption of legal provisions on the prevention of occupational risks and the improvement of working conditions, and the establishment, in the context of the agreement concluded by the Ministries of the Economy, Finance and Labour, of a tripartite commission on labour legislation. Furthermore, it is planned to establish a working group on the amendment of Decree No. 392/80 determining the list of documents for supervision which must be maintained by all establishments employing staff.

With reference to the comments made by the AITU concerning the absence of reaction by the higher labour inspection authority to reports by inspectors of abuses in cleaning and security enterprises, and the recommendations to remedy the corresponding shortcomings in the legislation, the Committee notes with interest the Bill to establish solidarity by subcontracting enterprises in relation to wage claims and the prevention of occupational risks. In the view of the Government, once adopted, this text should go a long way to remedying the abuses existing in service, security, forestry and cleaning enterprises. ***The Committee would be grateful if the Government would keep the ILO informed of any development in relation to labour policy and legislation on the conditions of work and the protection of workers while engaged in their work and provide information and documents on the operation of the tripartite bodies referred to above and the action taken on their recommendations. It requests the Government to provide information on any measures taken or envisaged with a view to the adoption of specific provisions applicable to labour inspection in ports.***

4. *Article 14. Notification to the labour inspectorate of industrial accidents and cases of occupational disease and the publication of information on occupational risks.* With reference to its previous comments on the subject concerning, firstly, the disappearance indicated by the AITU of a publication of the State Insurance Fund and, secondly, the opinion expressed by the PIT–CNT in 2003 concerning the responsibility of the Government to organize the communication of information on industrial accidents and cases of occupational disease, the Committee notes with interest the Government's announcement for 2006 of the organization and compilation, with the support of a statistical expert, of all the relevant information. ***It would be grateful if the Government would communicate this information to the ILO for the period covered by the next report on the application of the Convention and take measures for its inclusion in the annual report envisaged in Articles 20 and 21. It also once again requests the Government to provide copies of the legal provisions governing the procedure for the notification of industrial accidents in each of the sectors covered by the Convention.***

5. *Article 18. Appropriate penalties.* According to the PIT–CNT, the procedures followed for the imposition of penalties on those committing violations of the legislation for which labour inspectors are responsible are not adapted and do not take into account repeat offences in the amounts of fines. Furthermore, as the receipt of fines is the responsibility of the division responsible for legal affairs, labour inspectors are not informed of the measures taken as a result of their action. The Committee notes with satisfaction in relation to the first point, Decree No. 186/004 of 8 June 2004, under which violations of the labour legislation are classified according to their nature and taking into account the right affected, and the financial penalties applicable are determined on the basis of parameters such as negligence, wilful intent, the number of workers concerned, repeated failure to comply with orders and the damage caused. ***The Committee would be grateful if the Government would indicate whether it envisages taking measures to ensure that inspectors are kept informed of the penalties applied in practice so that they can assess the impact of their action and the dissuasive effect expected from these penalties.***

The Committee is addressing a request directly to the Government on other matters.

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1973)

With reference to its comments under the Labour Inspection Convention, 1947 (No. 81), the Committee notes the Government's report for the period ending 31 May 2005, the Decree of 16 March 2005 establishing the National Advisory Council for Labour Inspection Policy, Decree No. 186/004 of 8 June 2004 on the principle of proportionality in the penalties applicable for violations of labour legislation, Decree No. 67/99 on the allocation of travel expenses for officials in the central administration, and the tables on the distribution of costs between labour inspection activities during the year 2004.

The Committee also notes the observation made by the Inter-Union Assembly of Workers–National Convention of Workers (PIT–CNT), which was forwarded to the Government on 20 September 2005. Noting the recent change of Government and the new conception of industrial relations, the PIT–CNT hopes that the means of action of the labour inspectorate will soon be strengthened so as to improve the application of the Convention. From its viewpoint, the high incidence of employment accidents in agriculture is attributable to the generalized failure to comply with the labour legislation in rural areas, which is abetted by the inadequacy of the number of inspectors specializing in safety and health in agriculture, and particularly of transport facilities allowing inspectors to travel to workplaces, which are often difficult of access, such as rice farms and orange plantations.

1. *Articles 12 and 27(c), (f) and (g) of the Convention. Effective cooperation between inspection services and the taxation and social security authorities with a view to the registration of agricultural undertakings liable to labour inspection.* With reference to paragraphs 154 to 162 of its 2006 General Survey on labour inspection concerning the need for cooperation between inspection services and other approved public bodies and institutions with a view to establishing an effective system of inspection, the Committee notes with satisfaction that a one-stop system for the registration of enterprises is being established. ***The Committee hopes that the existence of a one-stop system common to the taxation, social security and labour inspection services for the registration and monitoring of enterprises will finally enable the central inspection authority to compile reliable information on the enterprises liable to inspection, the number and categories of workers engaged therein, occupational accidents and cases of occupational diseases, including their causes (Article 27(c), (f) and (g)).***

2. *Articles 14, 15 and 21. Resources of the labour inspection services and frequency of inspections.* With reference to its previous observation and to the comments of the PIT–CNT concerning the shortcomings of the labour inspectorate in the field of occupational safety and health in agriculture, the Committee notes with interest, with regard to human resources, that the need for 40 new inspectors specially intended for occupational safety and health inspections throughout the economy has been included in the budget forecasts of the Ministry. Moreover, a competition should result in the appointment in the near future of 15 inspectors for general labour conditions and, with a view to improving the performance of inspectors and accelerating their impact, it is envisaged to recruit ten jurists and over 20 administrative officials.

The Committee also notes with interest that the number of vehicles available to the inspection services has been doubled, rising from four to eight vehicles, and that it is planned to further increase the number through the purchase

during the course of the year of four four-wheel-drive vehicles to facilitate travel by inspectors to remote agricultural workplaces. With reference to its previous comments, the Committee notes with interest that forestry, rice, citrus fruit and sugar-cane plantations are now covered by programmed inspections, not only in relation to general conditions of work, but also working environment conditions. *The Committee hopes that the objectives of strengthening the human and material resources and transport facilities of the labour inspectorate will soon be achieved and that their translation into practice will have the effect of improving the level of compliance with the legislation in the agricultural sector. It requests the Government to keep the ILO informed of any progress achieved in this respect, and particularly to indicate the measures adopted for the establishment of a one-stop system for the registration of enterprises, the establishment and continuous updating of a register of agricultural undertakings so as to enable the labour inspectorate to identify needs more effectively and establish a programme of inspections covering all the fields within its competence and all categories of agricultural undertakings throughout the territory, and to plan its implementation.*

3. *Article 24. Adequate and effectively enforced penalties.* With reference to its previous comments, the Committee notes with interest the provisions of Decree No. 186/004 of 8 June 2004, issued under Law No. 15.903 of 10 November 1987, under which the penalties applicable to those committing violations of the labour legislation shall be established according to the degree of gravity of the infringement, which is defined taking into account a number of criteria, such as negligence, intent, the number of workers affected, repeated failure to comply with orders and the prejudice caused. With regard to occupational safety and health, the penalties shall be determined taking into account, among other factors, the permanent or temporary nature of the risk, the protection measures and devices established by the employer, and training and requirements relating to prevention against occupational risks. *The Committee requests the Government to provide data to the ILO in its next report on the effect given in practice to the provisions of this text, particularly in the agricultural sector.*

4. *Articles 26 and 27. Annual report.* With reference to its comments under Articles 20 and 21 of the Labour Inspection Convention, 1947 (No. 81), the Committee would be grateful if the Government would ensure that information specifically covering inspection activities in agricultural undertakings is published and communicated to the ILO on an annual basis, either as a separate report or as part of an inspection report covering other economic sectors.

The Committee is addressing a request directly to the Government on other matters.

Labour Administration Convention, 1978 (No. 150) (ratification: 1989)

The Committee notes the Government's report for the period ending 31 May 2005 and the legislative texts communicated with the reports relating to Conventions Nos. 81 and 129. The Committee also notes the new comments made by the Inter-Union Assembly of Workers–National Convention of Workers (PIT–CNT), which were communicated by the Government on 22 September 2005. The PIT–CNT considers that the Government systematically fails to apply the Convention and that the labour inspectorate, which is a vital component of the labour administration system, does not function in a satisfactory manner. According to the PIT–CNT, the exercise of a parallel profession by labour inspectors may prove to be incompatible with their inspection duties. With regard to the recent change of Government and the developments in respect of a change of approach in industrial relations and labour policy, with a greater role for participative tripartism, the PIT–CNT says that it is closely observing the development of the situation.

1. *Article 10, paragraph 1, of the Convention. Independence of the staff of the labour administration system.* In the light of the many comments it has made in the past under Convention No. 81 (in 2001, 2003 and 2004), which were taken up by the Conference Committee on the Application of Standards (in 2002) and which concerned the incompatibility, in respect of the technical and ethical aspects of the profession of labour inspector, of the legislation authorizing the labour inspector to carry out lucrative parallel activities, the Committee notes the Government's comments in its report under Convention No. 81 indicating that this situation is to be remedied by measures of a budgetary nature. The report indicates that the question of the disparity in wages between different groups of inspectors with regard to the wages of tax inspectors is being examined, as is the issue of the exclusivity of the function of officials from the General Directorate of Taxes. However, the Committee notes with concern that the possibility for labour inspectors to perform a parallel activity is not called into question, but only made subject to an obligation to declare, under oath, using a form issued by the National Public Service Office, the other employment activity. The Committee recalls, however, that, apart from the impact on the workload, the performing of a second job is highly likely to compromise the authority and impartiality of the labour inspector. The Committee emphasizes the importance of labour inspectors in the sense of Convention No. 81 and considers that these requirements can only be fulfilled if the inspector is independent of any improper external influences, such independence being a requirement under Article 10 of Convention No. 150 for all labour administration staff. *The Committee would be grateful if the Government would ensure that the independence of labour inspectors is not based only on provisions of a budgetary nature, but also on legal provisions preventing the exercise of a parallel salaried activity. It requests the Government to communicate information on any measures taken in this regard.*

2. *Strengthening of the resources and means of the labour administration.* The Committee notes with interest that the budget allocated to the Ministry of Labour and Social Security is to be doubled this year and that strategic services, in particular the labour inspectorate and the departments responsible for collective bargaining and employment policy, are soon to be reinforced, notably thanks to international cooperation in 2005 to help launch collective bargaining. The

Committee hopes that budgetary allocations for the future recruitment of inspectors, lawyers (ten) and administrative agents (25), and for the creation of a motor vehicle service for labour inspectors, will be made for next year. The Committee also notes with interest the establishment, in each district, of a single information point common to the services of the tax office and the Social Insurance Bank, and hopes that this measure will make it easier for the administrations concerned, in particular the labour inspectorate, to collect the information necessary to create a register of the establishments liable to inspection. *The Committee requests the Government to keep the Office informed of any progress made in this regard.*

3. *Strengthening the labour inspectorate to reduce occupational accidents.* In reference to its previous comments relating to the representation made to the ILO by the PIT–CNT and the National Single Trade Union in Construction and Similar Activities (SUNCA) concerning the frequency of occupational accidents in numerous sectors of activity, notably in the building industry, the Committee notes with interest that efforts continue to be made to strengthen the inspection service's capacity to take action, in particular through the quantitative and qualitative reinforcement of staff, the creation of a motor vehicle service and the provision of the fuel and travel allowances required by inspectors to travel around on inspection visits.

4. *Article 5. Tripartite consultation on labour inspection policy.* The Committee also notes with satisfaction the creation, by Decree No. 114 of 16 March 2005, of the National Advisory Council responsible for labour inspection policy. This body, headed by the General Inspector of Labour and Social Security, also comprises two employers' representatives and two workers' representatives and carries out the following functions:

- (1) issues notices concerning the definition of labour inspection policies in all branches of activity;
- (2) promotes the development of legislation relating to the prevention of occupational risks and the improvement of working conditions;
- (3) requests technical reports from the political bodies and institutions with a view to the improvement of working conditions and the working environment, and the identification of the priorities of the labour inspectorate;
- (4) ensures coordination with these bodies for the joint implementation of specific action plans;
- (5) prepares and proposes plans, programmes and national campaigns on safety, hygiene and the improvement of working conditions;
- (6) issues notices on the definition of specific policies, aimed notably at combating the informal economy or reducing occupational risks.

The Committee hopes that the Ministry's budgetary allocations for the recruitment of 40 hygiene and safety inspectors will come into effect in the near future, that these inspectors will contribute to increasing inspection activities in establishments and activities where risks are present and that information indicating a reduction in the number of occupational accidents will soon be communicated by the Government. The Committee would be grateful if the Government would communicate to the ILO a copy of any extracts from reports on the work of the National Advisory Council, and any information relating to improvements in the legislation on working conditions in the different sectors of economic activity, including conditions guaranteeing the protection of workers against risks to their health and safety.

Lastly, the Committee notes that the Government has not communicated the information it asked for in its previous direct request and therefore requests, once again, that it supplies this information.

Bolivarian Republic of Venezuela

Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

The Committee notes the Government's report for the period ending 1 September 2005.

Article 6 of the Convention. Status and conditions of service of labour inspectors. In a previous observation (in 2000), the Committee noted that, under the terms of section 1 of Presidential Decree No. 1367 of 12 June 1996, the staff of the labour inspectorate are considered to perform confidential functions and, as such, are liable to discretionary dismissal. It drew the Government's attention to the incompatibility between this provision and the letter and spirit of *Article 6* of the Convention and requested it to take the necessary measures to amend the legislation so as to secure for inspection staff a status and conditions of service such that they are assured of stability of employment and are independent of improper external influences. As the Government did not respond to its request, it was renewed in an observation in 2002. The report provided in 2003 on the application of the Convention contains the sole indication that no change had been made during the period in question. However, the Committee noted that the Act issuing the conditions of service of the public service, adopted on 6 September 2002, contained in sections 20 and 21 provisions applicable to officials performing functions of a confidential nature related to the security of the State, finance, customs, the control of foreign nationals and borders and control and inspection functions, under the terms of which the appointment and revocation of such persons is subject to discretionary power. For this reason, the Committee reiterated its request in 2003 and extended it to the latter legislation. In its report to the Committee in 2005, the Government indicated that the term "inspection" used in the 2002 Act did not include officials in the labour inspectorate, such as "labour and social security

and industrial controllers attached to labour control units, safety and health inspectors, the personnel of the National Occupational Safety and Health Prevention Institute”, who are all under the responsibility of the Ministry of Labour and, according to the Government, are governed by the provisions of Convention No. 81. However, the Committee notes, on the one hand, that labour inspectors are not among the officials explicitly excluded from the application of the 2002 Act by virtue of the single paragraph of its first section and, on the other, that in any event, pursuant to section 1 of Decree No. 1367 of 12 June 1996, “for the purposes of section 4(3) of the Act on administrative careers, officials are considered to occupy confidential posts and, as such, are liable to discretionary dismissal when, within the Ministry of Labour, they discharge the functions of labour inspection, surveillance and control of conditions of work and social security and industrial conditions, and are empowered to impose sanctions ...”. Such a provision is clearly contrary to *Article 6* of the Convention. In this respect, the Committee recalled in its 2006 General Survey on labour inspection that, as can be seen from the preparatory work for the Convention, public servant status was considered necessary for inspection staff as it was the status best suited to guaranteeing them the independence and impartiality necessary to the performance of their duties. As public servants, labour inspectors are generally appointed on a permanent basis and can only be dismissed for serious professional misconduct, which should be defined in terms that are as precise as possible to avoid arbitrary or improper interpretations. A decision to dismiss an inspector, like any other decision to apply a sanction with serious consequences, should be taken, or confirmed, by a body offering the necessary guarantees of independence or autonomy with respect to the hierarchical authority and in accordance with the procedure guaranteeing the right of defence and appeal (paragraph 203). ***The Committee therefore once again requests the Government to take the necessary measures as soon as possible to bring the legislation into conformity with the provisions of Article 6 of the Convention, through the deletion of section 1 of Decree No. 1367 of 12 June 1996, and an appropriate amendment to the Act of 6 September 2002 issuing the conditions of service of the public service. The Government is requested to keep the Office informed forthwith.***

The Committee is addressing a request directly to the Government on other matters.

Yemen

Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)

1. *Articles 20 and 21 of the Convention. Compiling and publishing of an annual inspection report.* According to information from the Government in a report received at the Office in November 2004, the General Administration of the Labour Inspectorate prepares reports on inspections by establishment and compiles statistics by enterprise on the workforce, infringements reported, binding decisions and measures taken. Furthermore, all the information broken down by enterprise is published in an annual report. In its report for the period ending June 2005, the Government states that it will shortly be sending a copy of an annual inspection report as required by *Articles 20 and 21*, but points out that for lack of financial resources, the General Administration of the Labour Inspectorate has no computers. The Committee takes note of the distribution of inspection staff by governorate and the fact that in eight governorates there are no labour inspectors because there is no economic activity. The Committee observes that the information on the number of inspections pertains only to the capital and the governorate of Hadramaut because, according to the Government, the other governorates have not sent in statistics. ***The Committee requests the Government to provide a copy of the annual report containing the latest statistics available by enterprise and to provide information on measures taken, including the acquisition of useful computer equipment, the design of suitable inspection forms and the development of the system for reporting to the General Administration of the Labour Inspectorate so that the latter may process the information required for the publication and communication to the ILO of an annual report, as required by Articles 20 and 21 of the Convention.***

2. *Labour legislation.* In an earlier report, the Government stated that the Labour Code was to be revised with the collaboration of an ILO expert and the participation of the social partners. ***The Committee would be grateful if the Government would report to the ILO any developments regarding the enactment of the above legislation or, if the text has already been adopted, provide a copy of it.***

3. *Article 7, paragraph 3. Training of labour inspectors.* The Committee notes that owing to a lack of internal resources and external assistance funds, the planned workshops for training inspectors were not held. ***The Committee would be grateful if the Government would keep the ILO informed of how the lack of refresher training for inspectors is affecting the performance of their duties and would report any measures taken or envisaged to remedy the matter.***

Zimbabwe

Labour Inspection Convention, 1947 (No. 81) (ratification: 1993)

The Committee notes the Government's report, the information provided in reply to its previous comments, the annual report on the activities of the Occupational Safety and Health Department and the legislation relating to the labour court. It also notes the Government's reply dated 28 November 2005 to the observations made by the Zimbabwe Congress of Trade Unions (ZCTU), communicated by the ICFTU to the ILO on 6 September 2005.

According to the ZCTU, the regular inspection of workplaces has always been a problem and has resulted in rampant non-compliance with the labour laws, especially by employers. The ZCTU considers that the lack of support from

the Government for the labour inspection services through the allocation of human and financial resources constitutes an obstacle to the application of Conventions, and particularly to the adoption of measures to ensure the effective and efficient operation of the Labour Inspection Department.

1. *Article 10 of the Convention. Staff of the labour inspection services.* In the view of the ZCTU, the Labour Inspection Department has always operated below capacity, with 17 inspectors being expected to cover 1.5 million workers in 13,000 workplaces. Because of the poor working conditions, it is difficult to retain staff, which has affected the implementation of the Convention, the publication of statistics and the preparation of reports on the activities of the inspection services.

2. *Article 18. Weakness of the means available to the inspection services.* According to the ZCTU, the main weapon of the inspection authorities against non-compliance with the legislation is purely administrative and consists of polite correspondence, making recommendations, occasional inspections, etc. As a result, the inspection system is perceived as being weak and toothless, and employers fail to give serious consideration to the recommendations of labour inspectors. The ZCTU considers that this situation is made worse by the low level of the penalties and fines to which employers are liable.

3. *Article 11. Material and logistical resources of the inspection services.* The ZCTU criticizes the Government for not providing the labour inspection authorities with adequate resources, such as transport facilities and office supplies. According to the ZCTU, the majority of inspectors use public transport, which considerably limits their effectiveness. As a consequence, inspection is at a minimum level and therefore encourages non-compliance with labour laws. This also explains the non-availability of information and statistics on the level of compliance with labour laws. In general, the ZCTU considers that the application of the Convention in practice is compromised by administrative hurdles and that labour issues are not given priority by the Government.

4. *Recommendations for the effective operation of the labour inspectorate.* The Committee notes that the ZCTU recommends that the Government adopt measures to ensure that: competent staff are retained and more staff recruited; working conditions are improved; the provision of resources such as vehicles and office supplies to labour inspectors is given priority; and penalties for non-compliance with the labour legislation continue to act as a deterrent. While emphasizing that challenges relating to resources and the remuneration of inspectors are not peculiar to Zimbabwe, the Government states that it takes note of these recommendations and indicates that it has made significant progress in maximizing the existing resources for effective and efficient inspections through the development of an integrated inspectorate. It expresses the hope that, with the support of the social partners, who have a role to play in ensuring that the inspection system fulfils its mandate, the challenges will be overcome. ***The Committee would be grateful if the Government would keep the ILO informed of any development in relation to the recommendations made by the ZCTU and provide any relevant text, document or statistics.***

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1993)

The Committee notes the Government's report, the observations of the Zimbabwe Congress of Trade Unions sent to the ILO on 6 September 2005, which apply mutatis mutandis to the application of this Convention and Convention No. 81, and the information communicated in response by the Government on 2 December 2005. ***Since the labour inspection system in agriculture is integrated into the inspection system common to other sectors of the economy, the Committee requests the Government to provide, in its next report on this Convention, the information requested in its observation under Convention No. 81, in so far as it specifically concerns labour inspection in agricultural undertakings.***

Moreover, the Committee notes with interest that regulations relating specifically to agriculture are currently being prepared in accordance with the guidelines provided by the Safety and Health in Agriculture Convention, 2001 (No. 184). ***It asks the Government to keep the ILO informed of any changes in the standard-setting process and to indicate if it envisages attributing particular functions to the labour inspectorate in relation to the application of the present Convention.***

Labour Administration Convention, 1978 (No. 150) (ratification: 1998)

The Committee notes the Government's report and the information sent in reply to its previous comments. It also notes the observations of 6 September 2005 by the Zimbabwe Congress of Trade Unions (ZCTU), and the Government's reply to the points raised, received on 28 November 2005.

According to the ZCTU, the labour administration lacks the necessary resources to operate. The staff of the Ministry of Public Service, Labour and Social Welfare lack the professional independence required by the Convention. Furthermore, the Minister of Labour has excessive powers enabling him to decide on his own issues relating to labour administration, which means that the social partners have no role to play. The ZCTU also indicates that since 2000, the Government has failed to publish collective bargaining agreements as the law requires in order for the agreements to be binding. For many workers, the Labour Court is not accessible because it is located only in Harare. Furthermore, the court is understaffed, which means long delays in the delivery of judgements. The ZCTU is of the view that tripartism should be

encouraged in the dispute settlement system and that an independent organ should be set up for conciliation and arbitration because the current system has failed to yield the desired results.

The Government is of the view that the ZCTU's allegations are too generic and are not based on documented information corroborated by evidence.

1. *Article 6, paragraph (2)(c). Inadequate consultation with the social partners.* According to the Government, the allegation that the Minister of Labour makes his own decisions regarding labour administration is not borne out by any provisions of the law. In its discussion of the application of Convention No. 87, the Conference Committee on the Application of Standards (ILC, 95th Session, May–June 2006) noted with concern the information submitted on the situation of trade unions in Zimbabwe and pointed out that workers' organizations must be able to give their views on the Government's social policy. ***The Committee would be grateful if the Government would indicate how the competent bodies within the system of labour administration encourage, at national, regional and local levels, effective consultation and cooperation between public authorities and bodies and employers' and workers' organizations.***

2. *Article 4. Organization and coordination of the system of labour administration.* The Committee notes with interest the information sent by the Government concerning the Labour Courts, particularly the information replying to the ZCTU's comments on this matter. The Government states that efforts are under way to enable the Labour Court to reach out to all provinces, citing the example of Masvingo, and that with the appointment of new judges, the backlog of the Labour Court has been reduced. The Committee also notes with interest the organizational chart of the department of labour relations and the budgetary information pertaining to labour administration for 2005. It nevertheless notes with concern that many posts are still vacant, particularly in provincial directorates and national coordination. ***The Committee draws the Government's attention to the guidance given in points 19–21 of Recommendation No. 158 on labour administration, and would be grateful if the Government would provide information on the manner in which it ensures the organization and effective operation in its territory of the system of labour administration, and that the latter's functions and responsibilities are properly coordinated.***

3. *Article 7. Extension of the system of labour administration.* ***The Committee would be grateful if the Government would indicate whether there are any plans to extend the functions of the system of labour administration to any of the categories of workers listed at Article 7(a)–(d). The Committee would also be grateful if the Government would send information on the action taken on the recommendation adopted by the Government, the employers and the workers in June 2002 to promote cooperatives, referred to in the previous report.***

4. *Part IV of the report form.* ***The Committee would be grateful if the Government would provide, in accordance with the report form approved by the ILO Governing Body, extracts of any reports or any periodic information provided by the principal labour administration services.***

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 63** (Djibouti, South Africa, United Republic of Tanzania, Uruguay); **Convention No. 81** (Algeria, Angola, Antigua and Barbuda, Bahamas, Bangladesh, Belize, Bulgaria, Colombia, Congo, Costa Rica, Cuba, Djibouti, Dominica, Egypt, El Salvador, France: French Guiana, France: Martinique, France: St. Pierre and Miquelon, Grenada, Honduras, Jamaica, Japan, Jordan, Republic of Korea, Kuwait, Kyrgyzstan, Lesotho, Malawi, Mauritania, Republic of Moldova, New Zealand, Peru, Portugal, Russian Federation, Rwanda, Sao Tome and Principe, Saudi Arabia, Singapore, Slovenia, Solomon Islands, Tunisia, United Arab Emirates, United Kingdom: Gibraltar, United Kingdom: Jersey, Uruguay, Bolivarian Republic of Venezuela, Zimbabwe); **Convention No. 85** (United Kingdom: British Virgin Islands); **Convention No. 129** (Colombia, Egypt, El Salvador, France: French Polynesia, France: Guadeloupe, France: Martinique, France: St. Pierre and Miquelon, Latvia, Madagascar, Malawi, Republic of Moldova, Slovenia, Sweden, Syrian Arab Republic, Uruguay); **Convention No. 150** (Belarus, Belize, Jordan, Republic of Korea, Luxembourg, Mauritius, Mexico, Seychelles, Tunisia, Uruguay); **Convention No. 160** (Azerbaijan, Benin, Republic of Korea, Latvia, Mauritius, Mexico, Netherlands, Norway, Panama, Portugal, Russian Federation, San Marino, Spain, Sri Lanka, Swaziland, Switzerland, Ukraine, United Kingdom, United Kingdom: Gibraltar, United Kingdom: Jersey, United States).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 81** (Greece); **Convention No. 150** (Sweden).

Employment Policy and Promotion

Argentina

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1996)

1. The Committee notes the detailed reply made by the Government in November 2005 to its previous direct request. The Government provided a copy of the opinion of the Attorney-General (*Procurador del Tesoro de la Nación*) dated 25 January 2000 (Opinion 232:061), concerning the request for advice on the validity of the legal provisions which applied prior to the ratification of the Convention. The Attorney-General found that sections 10 and 18 of Act No. 13591, which prohibited the operation of private employment agencies conducted with a view to profit, had become void since the approval of the ratification of Convention No. 96, Part III of which regulates such agencies. The Attorney-General indicated that “in accordance with the provisions of articles 31 and 75(22) of the National Constitution, treaties have a higher ranking than laws; it is accordingly clear that the Convention ... is ranked above the law; it was approved by the National Congress ... and it is not necessary for current domestic law to be adapted to its provisions. The ranking of the provisions of the Convention ... is higher than that of internal standards on matters relating to the subject covered, and they therefore prevail over such internal standards”. The Committee notes with satisfaction the information provided and welcomes the approach adopted by the Government to ensure the application of the Convention. Nevertheless, the Committee recalls that the Governing Body invited the States parties to Convention No. 96 to contemplate ratifying, if appropriate, the Private Employment Agencies Convention, 1997 (No. 181), the ratification of which involves the immediate denunciation of Convention No. 96.

2. *Regulation of fee-charging employment agencies.* With reference to its previous direct request, the Committee also notes with satisfaction the detailed provisions of Decree No. 489/2001, of 26 April 2001, approving regulations issued under *Article 1 of Part I and Articles 10, 11 and 12 of Part III of the Convention*. The Committee notes that neither cooperatives nor temporary work agencies may act as employment agencies. ***The Committee requests the Government to provide practical information in future reports on the measures adopted by the competent authority to supervise the activities of the agencies covered by the Convention, including whether courts of law have given decisions involving questions of principle relating to its application and providing summaries of inspection reports, information regarding the number and nature of the contraventions reported, and any other particulars bearing on the practical application of the Convention (Article 14 of the Convention and Parts IV and V of the report form).***

Barbados

Employment Policy Convention, 1964 (No. 122) (ratification: 1976)

The Committee notes the Government's report for the period ending December 2005, which substantially repeats the information provided in its previously received report in 2003. It notes the observation submitted by the Barbados Workers' Union (BWU), which is included in the Government's report, along with statistical data for 2005 provided by the Government.

1. *Implementation of an active employment policy.* The Committee notes that unemployment levels have remained relatively stable. Whereas unemployment among men rose between 2001 (7.2 per cent) and 2005 (8 per cent), women's unemployment fell by 1.2 per cent over the same period. The Committee recalls from the Government's previous report the efforts of the Bureau of Gender Affairs in mainstreaming the concept of gender with the objective of providing greater benefits for women in the area of employment, and to the work realized by the Ministry of Social Transformation that, through a number of programmes, is assisting in generating employment for its predominantly female clientele. In addition, the Committee recalls the efforts of the urban and rural development commissions to promote the development of the infrastructure and encourage rural employment creation both in agriculture and in non-agricultural activities. ***The Committee would appreciate receiving comprehensive information in the Government's next report on the programmes implemented and their impact on employment promotion both in the aggregate and as they affect particular categories of workers such as women, young persons, older workers and those in the rural sector. Please also supply information on underemployment as requested in previous comments.***

2. *Collection and use of employment data.* The Government explains that the Statistical Department and the Ministry of Labour and Social Security are responsible for collecting and analysing data concerning the size and distribution of the labour force. ***Please provide information on how the various policies and programmes to promote employment are kept under periodical review within the framework of a coordinated economic and social policy (Articles 1 and 2 of the Convention).***

3. *Persons with disabilities.* In its previous report, the Government provided information on the development of a Green Paper on persons with disabilities that outlined a strategic approach to improving the situation of disabled workers in the labour market. The Government might consider it useful to refer to the instruments on people with disabilities adopted by the Conference in 1983 (Convention No. 159 and Recommendation No. 168). ***The Committee would be***

grateful if the Government would include data in its next report on the integration of workers with disabilities into the labour market.

4. *Participation of the social partners in the formulation and implementation of policies.* The Committee notes that discussions on employment policies are held with the social partners. It recalls that a national consultation on the economy was convened in 2002 to seek the support of the social partners in maintaining employment levels in view of the global economic downturn. A three-month moratorium was agreed upon in relation to wage negotiations in key sectors of the economy. ***The Committee reiterates its request for further details on the manner in which consultations are held with representatives of the social partners, including representatives of rural and informal sector workers, and on the outcome of these consultations concerning employment policies (Article 3).***

5. The Committee notes that the BWU's statement, which closely follows the provisions on the informal economy in the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), expresses concern that average incomes in the informal economy are lower than those in the formal economy. The Committee notes the BWU's support for policy interventions on behalf of micro-enterprises and the self-employed aimed at promoting increased access to credit facilities and market information, formal education and training and, generally, the provision of decent work in the informal economy. ***In this regard, the Committee refers to the conclusions of the general discussion on the informal economy at the International Labour Conference (ILC, Provisional Record No. 25, 90th Session, Geneva, 2002) and invites the Government to report on its efforts to promote decent work for informal economy workers.***

Bolivia

Employment Service Convention, 1948 (No. 88) (ratification: 1977)

1. *Contribution of the employment service to employment promotion.* The Committee notes with interest the information provided by the Government in the report received in November 2005 regarding the establishment of the General Directorate of Employment, through Supreme Decree No. 27732 of 15 September 2004, to promote employment policies for the development and use of human resources in the context of an integrated economic and social development policy. The functions of the General Directorate of Employment include the provision of vocational guidance, advisory and placement services. An electronic employment exchange (www.proempleo.gov.bo) has been developed, as well as access to other electronic exchanges in the country. The Government supplemented the report with detailed and illustrative information on the results achieved in the La Paz labour exchange, which benefited from assistance from the Government of the United States. The Committee also notes with interest the information provided on the activities undertaken by the Labour Enterprise Foundation in the Department of Santa Cruz, as well as in other departments of the country. ***The Committee requests the Government to continue providing information on the measures adopted to ensure the efficient operation of the free public employment service comprising a network of employment offices sufficient in number to meet the needs of employers and workers throughout the country (Articles 1 to 3 of the Convention).*** The Committee expresses interest in continuing to receive statistical information on the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices (*Part IV of the report form*), and on the measures adopted as a result of the assistance received from the Subregional Office for the application of the Convention.

2. *Cooperation with the social partners.* In reply to the previous comments, the Government indicates that an Interinstitutional Employment Promotion Committee has been established. The relations between public institutions and employers' and workers' organizations, as well as with other civil society organizations concerned or involved, is not confined to consultation or coordination on isolated matters, but involves active participation and shared responsibility in policy development, implementation and even in the co-financing of certain programmes. ***The Committee would be grateful if more detailed information could be provided in the next report on the cooperation of the social partners in the operation of the employment service at both the national and local levels (Articles 4 and 5).***

3. *Effective cooperation between the public employment service and private employment agencies.* The Committee refers to its 2006 observation on the application of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96).

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1954)

Part II of the Convention. Progressive abolition of fee-charging employment agencies conducted with a view to profit. The Committee notes the report for the period between 2000 and 2005 and the attached documentation which was received in February 2006. The Government has forwarded a draft of a Presidential Decree regulating the activities of private employment agencies. Certain provisions of the draft regulations could give effect to the provisions of the Convention: for example, private employment agencies appear to be subject to the supervision of a competent authority. However, the draft regulations do not include other requirements envisaged by the Convention: the text examined appears to show that only in the case of domestic work may the fees charged for the employment placement undertaken by private employment agencies not be charged to domestic workers. The Committee emphasizes that in accepting Part II of the Convention, the Government made an undertaking to abolish fee-charging employment agencies conducted with a view to

profit. Bolivia ratified Convention No. 96 in 1954, but has not given effect to its provisions, which require the adoption of regulations establishing: a yearly permit or licence renewable at the discretion of the competent authority; a scale for the charging of fees and expenses approved by the competent authority or fixed by the said authority; and authorization by the competent authority to place or recruit workers abroad (*Articles 5 and 6 of the Convention*). Moreover, the International Labour Conference has adopted the Private Employment Agencies Convention, 1997 (No. 181), which recognizes the role played by private employment agencies in the operation of the labour market. The Governing Body of the ILO has invited States which are parties to Convention No. 96 to contemplate ratifying, as appropriate, Convention No. 181, the ratification of which will involve the immediate denunciation of Convention No. 96 (document GB. 273/LILS/4(Rev. 1), 273rd Session, Geneva, November 1998). ***The Committee therefore requests the Government to provide information on the adoption of the draft Presidential Decree regulating private employment agencies. The Committee requests the Government to keep it informed of the consultations that may have been held with the social partners concerning the eventual ratification of Convention No. 181.***

[The Government is asked to reply in detail to the present comments in 2007.]

Employment Policy Convention, 1964 (No. 122) (ratification: 1977)

1. *Coordination of economic policy with poverty reduction.* The Committee notes the report received in November 2005 and the particularly full additional documentation received in February 2006. The Government provided a copy of the Statistical Yearbook 2004, as well as reports of the National Regional Development Fund and the National Productive and Social Fund on the implementation of the National Emergency Employment Plan (PLANE I, II and III) and the PROPAIS Plan. PLANE provided temporary jobs for 250,000 people during the period May 2004–September 2005. PROPAIS assisted over 200,000 people by providing temporary work through the execution of around 1,300 projects to finance infrastructure and community development projects. The Government has also provided information on the new structure and functions of the Ministry of Labour, as set out in Presidential Decree No. 27732 of 15 September 2004. The Ministry of Labour has been assigned responsibility for improving employment policies through their design, adaptation and implementation. The Government also recalls the components of the Bolivian Poverty Reduction Strategy and the main activities envisaged under the Strategy. According to the data provided by the Government, open unemployment in urban areas fell to 8.7 per cent in 2004, although over 36 per cent of the active urban population are self-employed; 12 per cent are reported to be family workers or unpaid apprentices and 4 per cent household employees. ***The Committee requests the Government to specify whether the Ministry of Labour is still responsible for declaring and pursuing an active employment policy, as required by the Convention, and asks the Government to continue providing detailed information on the results achieved in the creation of lasting employment and the reduction of underemployment in the context of the national employment policy (Articles 1 and 2 of the Convention).***

2. *Coordination of education and vocational training policies with employment policy.* The Committee notes with interest the information concerning the process of the Bolivian National Productive Dialogue (DNBP) 2004, during which it was considered necessary to promote technical and technological education with a view to achieving effective economic recovery. Furthermore, in May 2005, a programme for young persons was approved, consisting of voluntary work by young persons leaving public universities. ***The Committee reiterates its interest for the Government to provide information in its next report on the results achieved by the initiatives adopted in the framework of the 2004 dialogue (such as the development of an Integrated Skills System and the implementation of the Programme for the Strengthening of Technical and Technological Training) so as to ensure the coordination of vocational training policies with employment policy. The Committee requests the Government to indicate the results achieved in terms of young persons leaving university who find lasting employment.***

3. *Participation of the social partners in the formulation and implementation of policies.* The Committee notes with interest that, in 2005, as proposed by the Subregional Office, an Inter-Institutional Employment Promotion Committee was organized, with the participation of Government authorities and representatives of employers' and workers' organizations. The specific objectives of the Inter-Institutional Committee include the establishment of a climate for the exchange of experience with a view to facilitating employment generation policies. The Government also refers to the National Industrial Development Council (CONDESIN), established in 2002, to coordinate the National Industrial Development Strategy with a view to promoting manufacturing in the country as a strategic basis for employment generation. ***The Committee requests the Government to provide with its next report the documents on employment policy approved by the Inter-Institutional Committee and by CONDESIN. The Committee also requests the Government to consider the manner in which representatives of the most vulnerable categories of the population, and particularly representatives of those working in rural areas and the informal economy, are included in the consultations required by the Convention when formulating and enlisting support for employment policy programmes and measures (Article 3).***

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1996)

1. *Implementation of a national policy.* The Committee notes the Government's report received in November 2005, which includes the National Plan for Equality and the Equalization of Opportunities for Persons with Disabilities (PNIEO), formulated at the initiative of the Ombudsperson with the active participation of the National Committee for

Persons with Disabilities (CONALPEDIS). The Government also included the Ombudsperson's resolution of December 2004, through which the Ombudsperson undertook a very detailed examination of the quality of the special education that should be provided for boys, girls and young persons with special educational needs related to disability. The report also contains a copy of a court ruling of August 2004, in which the Constitutional Court strengthened the principle of employment stability for persons with disabilities. The Government has adopted Presidential Decree No. 27477, of 6 May 2004, promoting, regulating and protecting the integration, progression and stability of persons with disabilities in the labour market. ***The Committee notes the above initiatives with interest and requests the Government to continue providing information in its next report on the effect given to Presidential Decree No. 27477, the results achieved by the National Plan and the action taken on the recommendations of the Ombudsperson with a view to the integration of persons with disabilities into the open labour market (Article 2 of the Convention).***

2. As indicated by the Government in its report, the constraints of a labour market with a high level of unemployment are compounded by the prejudices and stereotypes of employers and workers, which are reflected in discriminatory practices. A small minority of persons with disabilities find employment and, when taking it up, are confronted by a work environment impregnated with discriminatory practices preventing the autonomous development of persons with disabilities and their progressive integration into the labour market. ***The Committee therefore requests the Government to continue providing information on the efforts made to achieve effective equality of treatment between men and women workers with disabilities and other workers (Article 4), the vocational guidance and training, placement, employment and other related services provided to enable persons with disabilities to secure, retain and advance in employment (Article 7), the services provided for persons with disabilities living in remote areas and those without financial resources (Article 8) and the measures adopted in practice to ensure the availability of suitably qualified staff in the field of vocational rehabilitation (Article 9).***

3. *Consultation of the representative organizations of employers and workers.* In reply to its previous comment, the Government indicates that no employers' or workers' organizations appear to have expressed interest in becoming members of CONALPEDIS. Coordination with occupational organizations will be undertaken when progress has been made with the Register of Persons with Disabilities and the classification of degrees of disability. The Committee emphasizes the importance of holding consultations with the occupational organizations of employers and workers on the implementation of the vocational rehabilitation and employment policy for persons with disabilities. ***The Committee once again expresses interest in being provided with information on the consultations held with occupational organizations, such as the Bolivian Central of Workers and the Confederation of Private Employers of Bolivia, with regard to the measures taken to promote cooperation and coordination between public and private institutions engaged in vocational rehabilitation activities (Article 5).***

Brazil

Employment Service Convention, 1948 (No. 88) (ratification: 1957)

1. *Contribution of the employment service to employment promotion.* The Committee notes the Government's detailed report received in September 2005, with complete information and the relevant documentary annexes. The Secretariat of Employment and Wage Policies reports that in 2004 and 2005 two national congresses were held on the public employment system, labour and wages. The objective of these congresses was to reconstruct the public employment system with the involvement of the Government, representative bodies of workers and employers and all the services and programmes related to public labour market policies in order to promote the integration of workers into the market production system through self-employment or business activities. ***The Committee notes with interest the information received and, with reference to its observation on the application of the Employment Policy Convention, 1964 (No. 122), requests the Government to continue providing information on the measures adopted by the National Employment Scheme (SINE) to ensure the effective functioning of the free public employment service, comprising a network of employment offices sufficient in number to meet the specific needs of jobseekers and employers throughout the country (Articles 1 to 7 of the Convention).***

2. *Effective cooperation between the public employment service and private employment agencies.* As indicated in the report form for Article 11 of Convention No. 88, ***the Committee requests the Government to provide detailed information in its next report on the arrangements made to ensure that the necessary measures have been taken to secure effective cooperation between the public employment service and non-profit-making private employment agencies.*** The Committee recalls that, on 14 January 1972, Brazil denounced the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). The Committee invites the Government to consider the more recent instruments adopted at the 85th Session of the International Labour Conference (1997) and recalls that the Private Employment Agencies Convention, 1997 (No. 181), recognizes the role of private employment agencies in the operation of the labour market and the need for cooperation between the public employment service and private employment agencies.

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

1. *Application of employment policy in the framework of a coordinated economic and social policy.* The Committee notes the Government's detailed report received in September 2005. During the period under consideration, the Brazilian economy recorded growth of 4.9 per cent of its gross domestic product with a significant expansion of employment,

resulting in an increase of 1.5 million new jobs in the formal labour market, particularly in the manufacturing industry. The average unemployment rate fell to 11.5 per cent in 2004 (the Committee noted an urban unemployment rate of 12.4 per cent in 2003). The indicators in 2005 also remained positive, with the generation of 558,000 new jobs and an unemployment rate of 10.8 per cent up to April. The Government confirms its long-term strategy based on social inclusion and income redistribution with the growth of production and employment. The initiatives taken by the Ministry of Labour and Employment are aimed at the generation of employment, work and income, with social dialogue being pursued in the National Employment Forum and other tripartite bodies. Among the programmes undertaken by the National Employment System, which were referred to in previous comments, the Government refers in its report to the National Programme for the Promotion of First Jobs (PNEPE) which is intended to contribute to the generation of decent work opportunities for young persons by mobilizing the Government and society for the joint development of a national policy on decent work for young persons. The Committee understands that the expected results of the National Decent Work Agenda include the strengthening of the public employment system, work and income as a means of integrating active and passive labour market policies (unemployment insurance, vocational guidance, employment placement, vocational skills and qualifications, the compilation and management of labour market information and the promotion of entrepreneurship). *With reference to its general remarks of 2005, the Committee welcomes the fact that economic growth has been translated into better results in practice in the labour market. The Committee notes with interest that the objectives of full productive employment and decent work, set forth in the Government's report, constitute fundamental objectives of government policy. The Committee encourages the Government to continue providing information in its next report on the manner in which the objective of full employment has been taken into account in the formulation of economic and social policy. The Committee would also be grateful to continue receiving information on the experience of the social partners with regard to the application of the Convention, particularly where representatives of the rural sector and the informal economy have been included in consultations (Articles 1, 2 and 3 of the Convention).*

2. In its previous comments, the Committee recalled its interest in being informed of the results of the measures adopted and the mechanisms established to analyse information on and evaluate the progress achieved by the employment policy measures adopted. *In this respect, the Committee hopes that the Government will provide information in its next report on the operation throughout the country of the Job and Income Generation Programme (PROGER), and particularly its impact on the most vulnerable groups, such as the poor, women, young persons, the African and mixed race population and those living in areas with high unemployment rates.*

Cambodia

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

1. The Committee notes with regret that for the sixth consecutive year the Government's report has not been received. It urges the Government to supply a report for examination by the Committee at its next session.

2. In its 2005 observation, the Committee noted the *Better Factories Cambodia* programme, established in 2001, which is managed by the ILO and supported by the Government, the Garment Manufacturers' Association in Cambodia (GMAC) and trade unions (see <http://www.betterfactories.org/ILO/>). The programme is funded by the Governments of Cambodia, France and the United States, as well as by GMAC and international buyers. *Better Factories Cambodia* is creating services to help the industry improve working conditions, while at the same time improving quality and productivity. It offers to the industry a progressive range of training opportunities and resources. *The Committee would appreciate receiving further information on the outcome of this programme and how it contributes to employment creation.*

3. In previous reports received until 2000, the Government indicated that employment generation was the most important strategy for poverty reduction. The Committee had previously noted that greater diversification of the economy was needed to achieve poverty reduction and employment creation. *It would thus appreciate receiving further information on the progress made in diversifying the economy, particularly concerning agricultural and rural development. It also requests the Government to provide information in its next report on the measures taken to ensure that employment, as a key element of poverty reduction, is central to macroeconomic and social policies.* It would also be grateful to be able to examine information on the results achieved in improving the supply of vocational and technical training and promoting an enterprise culture (Articles 1 and 2 of the Convention and the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)).

4. The Committee noted previously that the country's statistics were not very reliable and that the ILO had provided support to the relevant ministry to develop labour market indicators. *In this regard, the Committee recalls the importance of establishing a system for the compilation of labour market data and asks the Government to inform it on any progress made in this field and to provide information in its next report on the employment policy measures adopted following the establishment of new information systems.*

5. *Participation of the social partners.* The Committee noted previously that a tripartite Labour Advisory Committee had been formed in 1999. *Please supply information on the activities of the Labour Advisory Committee, including information on whether it is consulted on the development and review of employment policies and*

programmes. Please also supply information on how the views of the persons affected, such as rural and informal sector workers, are taken into account (Article 3).

6. Finally, the Committee emphasizes the fact that the preparation of a detailed report, including the indications requested in this observation, will provide the Government and the social partners with an opportunity to evaluate the achievement of the objectives of full and productive employment set out in the Convention. The Committee draws the Government's attention to the technical assistance offered by the Office, which may assist it to comply with its reporting obligations and in the implementation of an active employment policy within the meaning of the Convention.

Cameroon

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

The Committee notes the Government's report received in November 2005, the comments made by the General Union of Cameroon Workers (UGTC), the comments made by the General Confederation of Labour–Liberté of Cameroon (CGT–Liberté), and the observations made by the Government in response.

1. *Formulation and implementation of a national employment policy.* The Government indicates that a declaration on national employment policy was drawn up in 2000, but that it has not been possible to formulate the national employment policy itself due to the country's low level of economic development. The Government points out, however, that financing provided by the Enhanced Initiative for Heavily Indebted Poor Countries (HIPC) has permitted the establishment of the Ministry of Employment and Vocational Training (MINEFOP), one of the missions of which is to formulate and implement the national policy on employment and vocational training and integration. In this regard, the Committee notes Decree No. 2005/123 of 15 April 2005 concerning the organization of MINEFOP, and, in particular, the provisions relating to the mission of the Employment Promotion Department (section 23). The Government indicates that, in November 2005, MINEFOP organized the General Conference on Employment, the resolutions of which should form the basis for the formulation of the national employment policy. Many of the speakers at the General Conference on Employment emphasized that employment remains a problem, despite the implementation of economic and social strategies, and commented on the absence of a coherent national employment policy that is integrated into economic policy. The Committee notes that this first General Conference on Employment made it possible to identify vulnerable groups in the labour market (women, young persons, persons with disabilities, marginalized groups, the long-term unemployed and the prison population) and to formulate recommendations and strategies to promote employment in different sectors as a basis for developing a national employment strategy. In this regard, the Committee notes that the Government has undertaken to set up a committee to support, implement, monitor and evaluate the recommendations of the General Conference on Employment and that this committee will include all the economic and social partners. ***It hopes that the Government will be in a position to indicate, in its next report, the specific measures adopted and implemented to promote full, productive and freely chosen employment (Article 1 of the Convention).***

2. *Coordination of employment policy with poverty reduction.* The Government indicates that Cameroon, which joined the HIPC initiative in October 2000, has drawn up a Poverty Reduction Strategy Paper (PRSP) in which employment plays a fundamental role. The Committee notes that the International Development Association (IDA) and the International Monetary Fund (IMF) have indicated that Cameroon has met the requirements for reaching the completion point under the HIPC initiative, including, most notably, satisfactory implementation of the poverty reduction strategy, maintenance of macroeconomic stability, social sector and structural reforms, and actions to improve governance and reduce corruption (IMF Country Report No. 06/190, May 2006). The Committee notes that the third annual progress report of the PRSP, covering 2005, was completed in February 2006 and that the IDA and IMF considered the implementation of the PRSP to be satisfactory in 2005. In particular, they indicate that the National Employment Fund has continued its actions on the socio-occupational integration of young people in paid jobs and self-employment, notably through the signing of a partnership agreement between the Government and the Cameroon Employers' Association (GICAM), the integration of jobseekers and the conclusion of agreements with vocational training centres and some enterprises for the validation of training modules (IMF Country Report No. 06/260, July 2006). ***The Committee asks the Government to provide up to date information in its next report on the measures taken to ensure that employment, as a key factor in poverty reduction, is at the heart of macroeconomic and social policy. It also asks the Government to provide information disaggregated by group on the results achieved, particularly for the vulnerable groups identified in point 2 of this observation, following the adoption of these measures (Articles 1 and 2).***

3. *Collection and analysis of statistical data.* The Government states that it is currently unable to provide any reliable statistical data, but indicates that the National Employment and Vocational Training Observatory (ONEFOP) has been in operation since 1 July 2005. The Committee notes that during the General Conference on Employment, speakers emphasized that there was a lack of knowledge of the labour market and its functioning, due to the absence of reliable statistical information. The Committee notes that the Government has launched a general survey of the population, most notably to determine the distribution of the labour force, the nature and trends of unemployment and underemployment, income, and poverty levels. ***The Committee hopes that the Government will provide information in its next report on the activities of ONEFOP and on the progress made on producing reliable statistical data. The Government is also***

requested to indicate how the measures adopted within the framework of the national employment policy are decided upon and followed up within the framework of a coordinated economic and social policy (Article 2).

4. *Participation of the social partners in the formulation and implementation of policies.* In its report, the Government indicates that the general objective of the General Conference on Employment was to gather the opinions of all the social partners with a view to establishing a definitive national employment policy and that, in this respect, extensive consultation took place with representative organizations of employers and workers, administrations and even civil society. The Committee notes that speakers emphasized the need to establish a permanent operational framework for social dialogue between the Government and the social partners. It notes that the General Conference on Employment recommended that committees be set up to assist the development of local employment by bringing together the social partners to reflect and act at the local level with a view to the creation of employment. ***The Committee invites the Government to provide information on the measures taken to give effect to these recommendations with a view to ensuring that the representatives of the persons affected, particularly those in the rural sector and the informal economy, collaborate fully in the formulation of employment policies (Article 3).***

China

Employment Policy Convention, 1964 (No. 122) (ratification: 1997)

1. In reply to the previous comments from 2004, the Committee notes the detailed information provided in the Government's report for the period ending May 2005. It also notes the observations supplied by the International Confederation of Free Trade Unions (ICFTU) and forwarded by the Office to the Government in October 2005. The Government's reply to the ICFTU's comments was received by the Office in January 2006. The Committee has benefited from an extensive technical analysis from the ILO Subregional Office in Bangkok, which completed and updated the already comprehensive information contained in the Government's reports and in the comments of the ICFTU. In this respect, the Committee notes the technical assistance that is being provided by the ILO on integrated employment strategies, job creation through enterprise development, enhanced employability for productivity and competitiveness, productive employment for local communities, equal opportunities in employment and decent and productive work for young people. The Committee wishes to be provided with further information on certain specific issues and asks the Government to provide in its next report further detailed information regarding the following points.

2. *Formulation of an employment strategy.* The Committee notes that, according to the Government's report, China will continue to face the enormous challenge of placing some 10 million new entrants annually in employment and finding new jobs for 14 million laid-off workers. Economic growth estimated at 8–9 per cent should create a little over 8 million new jobs, leaving a gap of 13–14 million jobseekers without employment. Over 2 million laid-off workers are still in or have left re-employment service centres. Another 3.6 million will be laid off over the next three years. An additional 3 million workers from secondary operations will need to be placed in employment. Others who have been re-employed are only in temporary jobs. An added challenge is to find suitable employment for college graduates and demobilized soldiers. Workers in temporary jobs and migrants from rural areas will also be looking for employment. The Committee notes that the Government has responded to the employment challenge by introducing a comprehensive set of new legislation and policy measures, including pilot programmes implemented in different provinces and cities to test new approaches to creating jobs and enhancing employability. The Committee notes that the fourth *China Human Development Report*, published in October 2005, highlighted the need to expand employment opportunities for the poor as the most effective way of reducing poverty: "the principle of 'employment first' should guide industrial policy, macroeconomic policy and regulatory policy". ***In this regard, the Committee emphasizes the need for measures to ensure that employment, as a key element of poverty reduction, is at the heart of macroeconomic and social policies. It would appreciate being provided with further information on the extent to which economic growth leads to an improved labour market and a reduction in poverty levels. It would also appreciate receiving information on how the programmes in place have contributed to employment promotion within a "framework of a coordinated economic and social policy" (Article 2, paragraph (a), of the Convention).***

3. *Freedom of choice of employment.* The Committee welcomes the ratification of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and hopes that its implementation will strengthen efforts to ensure freedom of choice of employment and that each worker will have the fullest possible opportunity to qualify for and to use his/her skills, in the conditions set out in *Article 1, paragraph 2(c)* of Convention No. 122. ***It requests the Government to provide such information, with an indication of the measures adopted to ensure that the progress achieved is translated into an increase in the participation rate of women and ethnic minorities.***

4. *Consistency and transparency of labour market information.* The Committee notes the statistical data provided by the Government in its report and the concerns expressed by the ICFTU regarding labour market information. The Government reports improvements in the collection and dissemination of statistical data, specifically the labour force survey that has been set up by the State Council, which will collect statistics for both urban and rural areas. The Committee also notes that efforts will be made to improve unemployment statistics so as to provide a viable basis for future employment policies and employment administration and services. ***The Committee asks the Government to***

provide an evaluation of the progress made in improving the labour market information system, with an indication of the manner in which the data have been used to determine and review employment policy measures (Article 2).

5. *Unifying the labour market.* The Committee notes that reforms are still required to the household registration system (*Hukou* System), the social welfare system and government employment policies. The Committee understands that, of the current urban population of 540 million, 160 million do not hold an urban *Hukou*, which impedes their ability to obtain productive employment. The *Hukou* System has also created barriers to the mobility of workers from rural to urban areas and therefore to a unified labour market. ***The Committee would appreciate receiving information on the ongoing process of dismantling of the household registration system (Hukou) in order to ensure labour market integration and a unified labour market.***

6. The Committee recalls from its previous comments that the White Paper published in April 2004 included within the objectives of the Government's policies improving the social security system. It notes that improvements include expanding its coverage and greater financial support. ***The Committee asks the Government to report in more detail on the progress achieved in extending adequate social protection to the entire population.*** The Committee understands that, among the laws currently under consideration are the Labour Contract Law and the Employment Promotion Law. In the Committee's view, measures to promote full employment permit the Government to create an environment that is conducive to the generation of productive and lasting employment in conditions that are socially adequate for all concerned. ***It asks the Government to report on the manner in which the new legislative texts are contributing to the generation of productive employment and the improvement of employment security for workers.***

7. *Reinforcing public employment services.* Referring to its previous comments, the Committee notes the progress made in the development of public employment services. At the end of 2004, there were 34,000 employment agencies, among which 23,000 were public agencies which provided annual services to about 19 million people with a 52 per cent rate of successful placements. The Committee also notes the efforts to improve employment services to migrant workers with the "Spring Breeze Operation" to provide free assistance to migrants returning from the countryside to find work in the cities. ***The Committee requests the Government to continue to report on measures taken by the public employment services to promote employment at each territorial division (province, prefecture, county and township levels). Please describe the measures taken or envisaged to ensure cooperation between the public employment service system and private employment agencies.***

8. *Measures to promote the re-employment of laid-off workers.* The Committee notes that since 1998 the Government has provided financial assistance and additional support to workers that have been laid off from state-owned enterprises. In 2004, 5.3 million laid-off workers participated in re-employment training, with a 71 per cent success rate in jobseeking. In 2004, the Plan for Re-employment Training was launched to promote the re-employment of laid-off workers. The Committee further notes the measures implemented in order to waive or reduce taxes encouraging enterprises to hire laid-off workers, and guaranteeing small loans to help workers to create self-employment and individually owned businesses. ***The Committee asks the Government to report on the results achieved through these measures to give greater support and assistance to laid-off workers for their re-employment.*** The Committee hopes the Government will be able to provide the results disaggregated by sex and age.

9. *Promoting small and medium-sized enterprises.* The Committee notes that the project "Dragon Chain" launched in 2003 has offered a range of business development services to small businesses, including training for business creation, project development, testing and guidance, credit services, follow-up and assistance. It further notes that the implementation of the ILO Start and Improve Your Business (SIYB) project has played a positive role in business creation and in promoting employment and re-employment. ***The Committee asks the Government to continue to report on the promotion of an enterprise culture and on the manner in which employment creation is promoted through small and medium-sized enterprises.*** The Government may also deem it useful to consult the provisions of the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189).

10. *Vocational training and education.* The Committee notes that the Government has increased vocational education and training efforts for the labour force in order to address the problem of the skills mismatch and to meet the demands of technology and modernization, relying on vocational training institutions and mobilizing enterprises and employers' organizations. The Committee understands that a Conference on Vocational Education was held in November 2005 which set targets and general policy measures for vocational training and education during the Eleventh Five-Year Plan, with the number of skilled technical workers expected to reach 110 million. ***The Committee asks the Government to continue to provide information on the results achieved by the measures taken to coordinate education and training policies with prospective employment opportunities.*** It draws the Government's attention to the Human Resources Development Convention, 1975 (No. 142), and the human resources development, education, training and lifelong learning policies contained in Recommendation No. 195 of 2004.

11. *Consultation of representatives of the persons affected.* The Committee notes the ICFTU's concerns regarding the participation of all those affected by employment policy measures. It recalls the importance of involving in consultations the representatives of the persons affected by the employment policies adopted by the Government, with the aim of taking fully into account their experience and views. ***The Committee reiterates its interest in receiving detailed information on the frequency and results of the consultations to secure the full cooperation of representatives of the social partners, including representatives of the rural sector and of the informal economy in the formulation and***

implementation of employment policies (Article 3). It would be grateful if the Government's next report also included details of the way in which the Government and the social partners have addressed the matters noted in this observation.

Comoros

Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its 2004 observation, which read as follows:

1. *Coordination of employment policy with poverty reduction.* The Committee noted previously the missions of the Technical and Vocational Training Office and the employment promotion activities carried out under the AMIE project. ***The Committee requests the Government to provide detailed information on the measures adopted to ensure that employment, as a key element of poverty reduction, is placed at the heart of macroeconomic and social policy.*** It would also be important to be able to examine information on the results achieved by the measures adopted to improve the supply of technical and vocational training and the promotion of an enterprise culture (*Articles 1 and 2 of the Convention* and the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)).

2. The Committee once again emphasizes the importance of establishing a system for the compilation of labour market data so that policies can be based on an accurate appraisal of labour market conditions. ***It requests the Government to provide information on any progress achieved in this field and also, in its next report, to provide information on the employment policy measures adopted as a result of the establishment of new labour market information systems.***

3. *Participation of the social partners in the formulation and application of policies.* The Committee recalls that it is the joint responsibility of the Government and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see paragraph 493 of the General Survey of 2004 on promoting employment). ***The Committee requests the Government to provide detailed information on the consultations envisaged by Article 3 of the Convention, which requires the consultation of all the persons affected, and in particular representatives of employers and workers, when declaring and pursuing employment policies.***

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

Costa Rica

Employment Service Convention, 1948 (No. 88) (ratification: 1960)

1. *Modernization of the employment service. Cooperation with the social partners.* With reference to the comments that it has been making for many years, the Committee notes with interest the new regulations and the establishment of the National Employment Placement Council, which is tripartite in composition. In 2004, tripartite committees were established dealing with the surveillance of the labour market, the assessment of employment exchanges and the national employment system. During the period 2000–04, the Ministry of Labour and Social Security concluded agreements with municipal authorities with a view to the decentralization of employment services with the active participation of local governments and representatives of civil society. ***The Committee requests the Government to continue providing information on the measures adopted to ensure the efficient operation of the free public employment service, with the cooperation of the social partners and comprising a network of employment offices sufficient in number to meet the needs of employers and workers throughout the country (Articles 1 to 5 of the Convention).***

2. *Application in practice.* The Committee requests the Government to provide statistical information in its next report on the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices (*Part IV of the report form*).

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

1. *Adoption and application of an active employment policy within the framework of a coordinated economic and social policy.* The Committee notes the information provided by the Government in its report for the period ending May 2005. The Government provided a copy of the document entitled "Employment policy for Costa Rica", published in March 2004, for which it received technical advice from the ILO. The publication was the outcome of tripartite consultations held in the framework of the Higher Labour Council and emphasizes there has not been an explicit employment policy in Costa Rica, as an integrated part of development policy, with the objective of promoting upward social mobility, achieving a better distribution of income and reducing poverty. The components of an employment policy should include: the creation of an employment information, guidance and placement system and a national technical training system; the restructuring of labour migration; the improvement of production by micro-, small and medium-sized enterprises, cooperatives and the social economy sector; the promotion of areas with relatively low levels of development and the protection of groups requiring special attention; and the establishment of a mechanism for planning, monitoring, assessment and evaluation so that the employment policy becomes a state policy. The Committee considers it essential from the outset for employment objectives to be included "as a major goal" in the formulation of economic and social policy if these objectives are truly to be an integral part of the policies that are adopted (2004 General Survey on promoting employment, paragraph 490). ***The Committee hopes that the Government's next report will include***

information enabling it to assess the progress achieved in the adoption of an active employment policy, with the participation of the social partners, with a view to achieving the employment creation objectives set out in the Convention (Articles 1, 2 and 3 of the Convention). In this respect, it requests the Government to provide information on the results achieved in terms of employment creation by the “Strategic Employment Generation, Production and Investment Programme”, particularly in the peripheral regions of the country. The Government is also requested to provide detailed information on the measures adopted in the framework of the national employment policy.

2. The information provided by the Government shows that the unemployment rate of 6.5 per cent (in 2004) was slightly lower than that of 2003 (6.7 per cent). The numbers of the unemployed fell and the labour force increased slightly. In 2004, a total of 13,492 new jobs were created. The Government indicates that if greater numbers of young persons of an age to be potentially active had opted to enter the labour market, the unemployment figures would have been discouraging. *The Committee requests the Government to provide detailed information in its next report on the situation, level and trends of employment, unemployment and underemployment, with an indication of the manner in which they affect the most vulnerable categories (women, young workers, older workers, rural workers and workers in the informal economy). The Committee requests information on the contribution of export processing zones to the creation of lasting high-quality employment.*

3. The Committee notes the information provided on the initiatives adopted by the Ministry of Public Education and the action taken by the National Training Institute (INA). The Committee would be grateful if the Government would continue to refer in its next report to matters relating to the coordination of education and vocational training policies with employment policy, which is indispensable if every worker is to enjoy full opportunities to acquire the necessary training with a view to obtaining suitable employment and using their training and skills in such employment. In this respect, the Government may wish to refer to the guidance contained in Recommendation No. 195, adopted by the International Labour Conference at its 92nd Session (June 2004), and the provisions of the Human Resources Development Convention, 1975 (No. 142).

4. *ILO technical cooperation.* The Committee notes the *Tripartite Declaration on the promotion of employment and decent work in Central America and the Dominican Republic*, concluded by the Ministers of Labour and representatives of employers’ and workers’ organizations in Tegucigalpa in June 2005. In the Tripartite Declaration, among other significant policies, it was agreed to place the objective of creating worthwhile, sustainable and high-quality jobs, in accordance with ILO parameters, at the centre of macroeconomic policy, with efforts being focused not only on controlling inflation and the fiscal deficit, but also, with equal priority, on the promotion of investment and equitable growth. *The Committee would be grateful if the Government would provide information in its next report on the initiatives that have been taken with ILO support to promote, at both the national and subregional levels, the objective of the creation of productive employment as set out in the Convention (Part V of the report form).*

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1991)

In reply to its previous direct request, the Government indicates in the report received in September 2005 that the definition of persons with disabilities has been broadened and improved with the approval in November 1999 of the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities (Act No. 7948). Furthermore, following the holding of a National Forum and a broad process of consultation, public policies on disability have been established by Presidential Instruction No. 27, of December 1999, published in January 2001. *The Committee notes with interest this concentration of effort and requests the Government to continue providing information in future reports on the results achieved by public policies and private initiatives designed to integrate persons with disabilities into the labour market.*

Côte d'Ivoire

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1992)

1. *Activities of temporary work enterprises. Revision of Convention No. 96.* The Committee notes the Government’s indication, in its report received in June 2006, that the activities of temporary work enterprises, as they operate in Côte d’Ivoire, cannot be assimilated to those of a fee-charging employment agency. The Committee nevertheless refers to the comments that it has been making for many years and draws the Government’s attention to the fact that, under the terms of *Article 1, paragraph 1(a), of the Convention*, temporary work enterprises are covered by the definition of fee-charging employment agencies. *The Committee once again requests the Government to indicate the manner in which the legal regime of temporary work enterprises is in conformity with the provisions of the Convention.* In this connection, the Committee recalls that the Governing Body of the ILO invited the States parties to Convention No. 96 to contemplate ratifying, as appropriate, the Private Employment Agencies Convention, 1997 (No. 181), the ratification of which will involve the immediate denunciation of Convention No. 96 (document GB.273/LILS/4(Rev.1), 273rd Session, Geneva, November 1998). *The Committee requests the Government to report on any developments which may occur in this respect, in consultation with the social partners.*

2. *Part III of the Convention. Regulation of fee-charging employment agencies.* The Government indicates in its report that fee-charging employment agencies are approved for three years to take into account the national context, and that the administrative conditions for renewal are such that annual renewal appears almost impossible. ***The Committee refers once again to Article 10(b), which provides that such agencies shall be required to be in possession of a yearly licence renewable at the discretion of the competent authority so that they can be subject to regular supervision and it trusts that the Government will make every effort to give full effect to this provision of the Convention.***

3. *Supervision of the activities of fee-charging employment agencies.* The Committee notes that the Agency for Employment Studies and Promotion (AGEPE) is entrusted with the function of approving fee-charging employment agencies and that in this capacity it is responsible for their regular supervision. The Government indicates in its report that, for this purpose, employment agencies are under the obligation to notify the vacancies received and the number of workers placed in employment so that statistics can be established and projections made. However, the Committee notes the Government's statement that, in practice, the AGEPE as a regulatory body is in competition with fee-charging employment agencies, and that the agencies do not therefore see the need to notify their statistics to a de facto competitor. ***The Committee requests the Government to provide further particulars in this respect and to indicate the appropriate penalties established, including the withdrawal where necessary of licences and authorizations, for any violation of the provisions of the national legislation respecting supervision by the competent authorities of the activities of fee-charging employment agencies (Articles 13 and 14).***

4. *Part V of the report form.* The Committee draws the Government's attention to the importance of the regular provision of up to date information on the application of the Convention in practice so as to enable it to examine the effect given to the provisions of the Convention. ***In this respect, it requests the Government to provide all available information on the manner in which the Convention is applied in practice, and particularly statistics on fee-charging placement activities, and on the number and nature of the infringements reported.***

Czech Republic

Employment Policy Convention, 1964 (No. 122) (ratification: 1993)

The Committee notes the detailed information contained in the Government's report received in October 2005. It also notes the National Action Plan for Employment 2004–06.

1. *General economic policies and employment trends.* Supplemented by the data published by the OECD, the Government's report demonstrates that, after remaining above 9 per cent in 2005, the unemployment rate reached a record high of 10.2 per cent in January 2006. The highest rates of unemployment were recorded in the northern regions of Bohemia and Moravia, reaching over 20 per cent in some areas. About 40 per cent of unemployed people are long-term unemployed (more than 12 months), while the rate for young people under the age of 25 is twice that of the general unemployment rate. The Government also indicates that, while the employment rate of women has traditionally been higher than the EU average, that is mainly due to part-time work and extended possibilities for short-time work. The Government acknowledges that it still has to combat the structural causes of unemployment in order to reach the EU target of 60 per cent employment rate by 2010.

2. The Government emphasizes in its report the importance of regional policy for tackling the regional disparities in the impact of large-scale structural changes on economic activity and employment. Under the regional development strategy, which includes the implementation of several state programmes, such as the Countryside Support Programme, resources are concentrated on the least developed or the regions which have the highest unemployment rates. The Government also indicates that, since it joined the EU, support for regional development has been secured through EU-funded programmes aimed at supporting enterprises in selected regions and increasing the development of infrastructure. The Government also mentions its industrial policy, designed to encourage foreign direct investment and to promote exports, as well as a policy to support the development of small and medium-sized enterprises. Regarding its support for investors within the framework of investment incentives, the Government indicates that these measures have started to show some results on employment, for instance in the Ústí region, where around 30 investors have undertaken to create nearly 7,200 jobs. The Committee notes this information and recalls that success in employment creation is linked to the successful coordination of macroeconomic policies, as well as structural policies. ***It therefore asks the Government to continue to report on how employment policy measures are kept under regular review within the framework of a coordinated economic and social policy. It also asks the Government to communicate, in its next report, any evaluation available of the impact of the programmes and measures that it describes on economic activity and employment. It would also be grateful if the Government could continue to provide disaggregated data on the level and trends of employment, unemployment and underemployment, and indicate the measures taken and the results achieved in reducing labour market disparities in the country (Articles 1 and 2 of the Convention).***

3. *Labour market and training policies.* The Government indicates that employment policy objectives and measures are included in its National Action Plan for Employment, adopted in accordance with the European Employment Strategy. The Government indicates that special attention is devoted to vulnerable groups to provide them with further vocational training. In this regard, the Committee hopes that the Government will include information in its next report on the results

of the measures taken to provide skills to young and older workers, in order to keep those categories of vulnerable workers in the labour market.

4. *Participation of the social partners in the formulation and application of policies.* Regarding consultations with the social partners on employment policy issues, the Government provides an overview of all the plenary meetings held by the Economic and Social Council (RHSD) during the reporting period. The Government emphasizes the fact that these tripartite meetings were attended by high-level government officials, as well as by the most representative workers' and employers' organizations, and their agenda included the most significant issues related to employment policy. It also states that respect for the social partners' positions on individual aspects of employment policy is considered not only relevant, but absolutely necessary and essential. ***The Committee notes with interest the approach taken and asks the Government to continue to provide information on the consultation of the social partners on employment policy issues (Article 3).***

Djibouti

Employment Service Convention, 1948 (No. 88) (ratification: 1978)

1. *Contribution of the employment service to employment promotion.* ***The Committee notes that the Government's report received in October 2005 essentially repeats the information provided in the report received in November 2000. With reference to its comments on the application of the Employment Policy Convention, 1964 (No. 122), and noting the worrying labour market situation, the Committee requests the Government to provide information on the activities undertaken by the public employment services to ensure the best possible organization of the employment market, particularly by adapting the network of services to the needs of the economy and the active population. Furthermore, the Committee requests the Government to furnish statistical information on the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices, with an indication of the efforts made to respond to the expectations of employers and workers throughout the country (Articles 1 and 3 of the Convention and Part IV of the report form).***

2. *Cooperation with the social partners.* The Government once again indicates that it hopes that the national crisis of the trade union movement will soon be resolved with the assistance of the ILO and that the conditions will be fulfilled for the organization of national tripartite consultation at all levels, also covering the organization and operation of the National Employment Service. ***The Committee expresses the firm hope that the Government will be in a position to report on the operation of tripartite advisory committees so as to ensure 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 (Articles 4 and 5).***

3. *Specific needs of persons with disabilities and young persons.* The Government indicates that section 8 of Act No. 75/AN/00 provides for the establishment of a vocational placement service with the role of instituting an employment and vocational training observatory and implementing programmes in response to the needs of the economy. ***The Committee requests the Government to indicate whether a vocational placement service has been established in practice, as provided for by the law, and it requests the Government to provide information on any progress achieved concerning the measures to be taken to give effect to Articles 7 and 8 of the Convention.***

4. *Training of the staff of the employment service.* ***The Committee requests the Government to provide up to date information on the measures taken or planned to establish training for the staff of the National Employment Service (Article 9).***

[The Government is asked to reply in detail to the present comments in 2007.]

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1978)

1. *Part II of the Convention. Progressive abolition of fee-charging employment agencies conducted with a view to a profit.* The Committee notes the information contained in the Government's report received in October 2005. It also notes the comments made by the Labour Union of Djibouti (UDT) and the General Union of Djibouti Workers (UGTD) on the application of the Convention, which were forwarded to the Government in October 2005. In its report, the Government refers to Act No. 75/AN/00 4th L respecting the organization of the Ministry of Employment and National Solidarity, which liberalizes employment. The Government explains that, in areas where there is no national employment service (SNE) structure, it is represented by district commissioners. The Government adds that, with the liberalization of employment, employers can recruit freely and then regularize the situation with the SNE. Furthermore, the Committee notes that, according to the UDT and the UGTD, fee-charging employment agencies have been legalized in Djibouti for three years. These agencies are reported to act as filters for employment. The UDT and the UGTD state that these agencies charge jobseekers and even deduct sums illegally from workers' wages. ***The Committee requests the Government to provide general information in its next report on the manner in which the Convention is applied, including a summary of the reports of the inspection services, the number and nature of the contraventions reported and any other particulars bearing on the practical application of the Convention, including the placement or recruitment of workers abroad.***

2. *Revision of Convention No. 96.* The Committee recalls that the Private Employment Agencies Convention, 1997 (No. 181), acknowledges the role played by private employment agencies in the operation of the labour market. The Governing Body of the ILO has invited States parties to Convention No. 96 to contemplate ratifying, as appropriate, the Private Employment Agencies Convention, 1997 (No. 181), the ratification of which would involve the immediate denunciation of Convention No. 96 (document GB.273/LILS/4(Rev.1), 273rd Session, Geneva, November 1998). ***The Committee invites the Government to keep it informed of any developments, which in consultation with the social partners, might occur in this regard.***

[The Government is asked to reply in detail to the present comments in 2007.]

Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

The Committee notes the brief information received in October 2005, referring to the objectives set by the Government for the period 2000–01. The Committee is bound to reiterate its 2004 observation and requests the Government to provide a report containing up to date and detailed information on the following points.

1. *Coordination of employment policy with poverty reduction.* The Government once again indicates that it is on the point of completing, with ILO technical assistance, a plan of action on employment policy based on job creation and decent incomes for women and men with various components, such as the development of labour market and employment statistics, the reform of labour market administrative structures and institutions, vocational training and job creation in small and medium-sized enterprises. The Government also refers to the preparation of a national employment policy and the organization of an employment conference in 2006. The Committee further notes that, according to the information contained in the Poverty Reduction Strategy Paper of 2004, the unemployment rate is 59 per cent and that over half of the persons concerned are seeking their first job. Moreover, the Committee notes that the participation of women in the labour market remains extremely limited, with an unemployment rate of under 35 per cent. ***The Committee requests the Government to provide detailed and up to date information in its next report on the measures taken to ensure that employment, as a key element of poverty reduction, is at the heart of macroeconomic and social policies. The Committee requests the Government to provide information on the results achieved, disaggregated by category, particularly for young persons and women, by the measures adopted to improve the supply of vocational and technical training and to promote small and medium-sized enterprises. It would also be grateful to be provided with information on the outcome of the national employment conference held in 2006 and the progress achieved with the Poverty Reduction Strategy, which it has been implementing since 2001 (Articles 1 and 2 of the Convention).***

2. The Committee once again emphasizes the importance of establishing a system for the compilation of labour market data so that policies can be based on a precise assessment of labour market conditions. ***It once again requests the Government to provide information on any progress achieved in this field and to supply information in its next report on the employment policy measures adopted following the establishment of new labour market information systems.***

3. *Participation of the social partners in the formulation and application of policies.* In the absence of any new information from the Government on this subject, the Committee recalls that it is the joint responsibility of the Government and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see paragraph 493 of the 2004 General Survey on promoting employment). ***The Committee once again requests the Government to provide detailed information on the consultations required by Article 3 of the Convention, which involve the consultation of representatives of all the persons affected and, in particular, representatives of employers and workers, in the formulation and implementation of employment policies.***

4. *ILO technical assistance.* ***Finally, the Committee once again requests the Government to describe in its next report the actions taken to implement an active employment policy within the meaning of the Convention following the technical assistance received from the ILO (Part V of the report form).***

Ecuador

Employment Policy Convention, 1964 (No. 122) (ratification: 1972)

1. *Coordination of employment policy with economic and social policy.* The Committee notes the report received in September 2005, to which was attached a summary of the General State Budget by sector for 2005. The Committee notes the amounts allocated to labour matters and social development. The Government also briefly enumerates the six priority programme objectives which comprise its immediate plan of action for employment for 2005 and 2006. According to information from the Subregional Office, due to the lack of financing, the above plan was not initiated in 2005. The Committee notes that, although there was an increase in GDP and the volume of exports, the rise in the unemployment rate in the first quarter of 2005 in Quito, Guayaquil and Cuenca was followed by a more significant decrease in the second quarter in relation to the same period in 2004, with the result that the average unemployment rate for the first half of 2005 was 11.1 per cent, which was slightly lower than the 11.3 per cent recorded in the same period in 2004. As indicated by the ILO in *Panama laboral 2005*, the low rate of generation of quality employment is also a cause of concern. During the period under consideration, informality on the labour market continued to rise (and affects around 60 per cent of the

population), as did poverty, leading to great pressure on emigration. The Committee refers to its 2004 observation in which it requested the Government to provide detailed information on the manner in which employment policy objectives are related to other social and economic objectives. *The Committee once again requests the Government to provide detailed information in its next report on the situation, level and trends of employment, unemployment and underemployment in the country and the extent to which they affect the most vulnerable categories of workers (such as women, young persons and rural workers), who tend to experience most difficulty in finding lasting employment. The Committee requests the Government to indicate the manner in which the statistical data compiled has served as a basis for the establishment of economic and social policies which give priority to the creation of productive employment (Articles 1 and 2 of the Convention).*

2. *Participation of the social partners in the formulation and implementation of policies.* In response to the 2004 observation, the Government indicates that the experience of Peru has been a significant influence on Ecuador agreeing to establish the National Labour Council. Following two tripartite meetings, the National Labour Council was established and has held various consultations. The Government indicates that the participation of citizens through the people's assemblies also provides opportunities for views to be expressed on the various economic and social issues. *The Committee welcomes the examination carried out of good practices that have been established in the subregion and reiterates the importance of the Government providing information in its next report that is sufficiently full and detailed to offer a basis for assessing whether the measures adopted in relation to employment policy have taken fully into account the experience and views of the representatives of organizations of employers and workers, including the representatives of those working in the rural sector and the informal economy. In particular, the Committee would be grateful to be provided with information showing the manner in which the National Labour Council has participated in the formulation and implementation of an active employment policy, as required by the Convention (Article 3).*

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1988)

1. *Implementation of a national policy.* The Committee notes the Government's report received in September 2005 describing the activities carried out by the Ministry of Labour and the National Council for the Disabled (CONADES). Furthermore, the Committee notes that on 30 January 2006 the Labour Code was amended to establish that public or private employers with a minimum number of 25 workers are under the obligation to hire at least one person with disabilities on a permanent basis in work considered appropriate in relation to their experience, physical condition and individual aptitudes, in observance of the principles of equality, gender and diversity of disability. As from the second year from which the new provisions are in force, such persons must account for 1 per cent of the total number of workers, 2 per cent in the third year, 3 per cent in the fourth year and reaching 4 per cent of the total number of workers in the fifth year, with this percentage applying in all successive years. *The Committee notes with interest the legislative initiatives and practical activities carried out and requests the Government to continue providing information in its next report on the results achieved in terms of the integration of persons with disabilities into the open labour market (Article 2 of the Convention).*

2. *Consultation of representative organizations of employers and workers.* The Committee refers to its previous comments and recalls the importance of the consultation of occupational organizations on the implementation of the policy of vocational rehabilitation and employment for persons with disabilities. *The Committee once again expresses interest in being provided with information on the consultations held with the occupational organizations of employers and workers in relation to the measures taken to promote cooperation and coordination between public and private institutions engaged in vocational rehabilitation activities (Article 5).*

El Salvador

Employment Policy Convention, 1964 (No. 122) (ratification: 1995)

1. *Coordination of employment policy and poverty reduction.* The Committee notes the Government's report, received in September 2005, which contains the information requested in its 2003 observation. The Government provides information on the activities undertaken by the labour market observatory for the formulation of vocational training programmes, on the operation of the employment placement system and on programmes for underprivileged groups (young persons and women heads of households, persons with disabilities). The Government indicates that the underemployment rate is 34.6 per cent, with the national unemployment rate being 6.8 per cent (in 2004). Around 8,000 jobs have been lost in the export processing sector as a consequence of Asian competition in the textile sector. *The Committee requests the Government to indicate in its next report the results achieved in terms of the creation of lasting employment and the reduction of underemployment in the framework of the national employment policy. The Committee asks the Government to include in its next report detailed information on the measures adopted in the context of the national employment policy. Furthermore, the Committee would be grateful to be informed of the infrastructure development measures adopted and their impact on employment creation, as well as the manner in which the trade agreements negotiated have affected the labour market (Article 1 of the Convention).*

2. *Participation of the social partners in the formulation and implementation of policies.* The Government refers to the establishment of a standing tripartite employment forum to contribute to placing the objective of the generation of high-quality jobs at the centre of economic policy. Studies have been undertaken in the Higher Labour Council with a view to the formulation of a national employment policy. Furthermore, a national policy has been formulated for the promotion of youth employment. ***The Committee requests the Government to supply the documents adopted on the national employment policy and for the promotion of youth employment. It would be grateful if the Government would include detailed information in its next report on the employment created as a result of the implementation of the above policies. The Committee also requests the Government to give consideration to the manner in which the consultations required by the Convention can include representatives of the most vulnerable categories of the population, and in particular representatives of rural workers and workers in the informal economy, in formulating programmes and seeking support for the implementation of employment policy measures (Article 3).***

3. *ILO technical cooperation.* The Committee notes the “Tripartite Declaration for the promotion of employment and decent work in Central America and the Dominican Republic”, concluded by the Ministers of Labour and representatives of employers’ and workers’ organizations in Tegucigalpa in June 2005. In the Tripartite Declaration, among other significant policies, it was agreed to include the objective of the creation of worthwhile, lasting and high-quality jobs, in accordance with ILO parameters, as central to macroeconomic policy, with efforts focusing not only on controlling inflation and the fiscal deficit, but also and with equal priority on the promotion of investment and equitable growth. ***The Committee would be grateful if the Government would provide information in its next report on the initiatives taken with ILO support to promote, at both the national and subregional levels, the objectives of the creation of productive employment as set out in the Convention (Part V of the report form).***

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1986)

The Committee notes the detailed information provided by the Government in the report received in September 2005, which contains a description of the activities undertaken to give effect to the Act of 2000 for the equalization of opportunities for persons with disabilities and the initiatives taken by the El Salvador Institute for the Rehabilitation of Invalids and the National Council for the Integral Care of Persons with Disabilities. In reply to its previous comment, the Government also provides statistical data on the vocational integration of persons with disabilities, with very detailed data for each department and indicators disaggregated by gender, occupational category and income. ***The Committee notes with interest the progress achieved and requests the Government to continue providing information in future reports on the results achieved by public policies and private initiatives designed to achieve the integration of persons with disabilities into the labour market.***

Ethiopia

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)

The Committee notes the Government’s brief report received in November 2005. It further notes that a national tripartite workshop on the role of private employment agencies, in the context of the trafficking of domestic workers overseas, was held in February 2006. In collaboration with the Ministry of Labour and Social Affairs, the Office undertook a technical study on the operation of overseas private employment agencies in the country. The study has provided some indications to the Government to strengthen its monitoring and supervision mechanism to narrow the gap between the law and practice in areas such as fee charging, guidance to workers and the protection of workers’ rights and well-being. The study points out that the monitoring and supervision mechanism of private employment agencies should work in conjunction with an effective system that combats trafficking in persons.

1. *Protection of migrant workers.* The Committee notes that in its report the Government has not provided the information requested by the report form on the measures taken, after consulting the most representative organizations of employers and workers, “to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies” (*Article 8, paragraph 1, of the Convention*). In this context, the Committee expresses its serious concern regarding the protection of Ethiopian workers recruited or placed either through regular or irregular private agencies and the prevalence of trafficking in persons. The Committee recalls that, in accordance with section 18, paragraph 1(b) and paragraph 3, of the Private Employment Agencies (PEA) Proclamation No. 104/1998, penalties are envisaged against persons who send Ethiopian nationals abroad for work without possessing a licence in accordance with the PEA Proclamation, or where the human rights or physical integrity of Ethiopians sent abroad for work have been violated. ***The Committee requests the Government to supply detailed information in its next report on the measures taken to provide adequate protection and prevent abuses of migrant workers recruited in Ethiopia (Article 8 of the Convention).*** In this sense, the Committee recalls that, in March 2006, a *Multilateral Framework on Labour Migration* was published by the ILO, which includes non-binding principles and guidelines for a rights-based approach to labour migration. ***It also requests the Government to provide information on bilateral labour agreements concluded to prevent abuses and fraudulent practices in the recruitment, placement and employment of migrant workers.***

2. *Trafficking of children.* The Government states in its report that, according to the labour law, child labour is not used or supplied by private employment agencies. The Committee refers to its 2005 direct request on the application of Convention No. 182, and, in particular, the efforts that are being made to put in place the National Plan of Action against the commercial sexual abuse and exploitation of children in Ethiopia. This programme will also deal with prevention, protection and rehabilitation to combat the worst forms of child labour. The Committee noted that, according to UNICEF data, every year thousands of women and girls are reported to be trafficked from Ethiopia to the Middle East, especially to Lebanon, Saudi Arabia and the United Arab Emirates. *As required by Article 9 of Convention No. 181, the Government is requested to indicate the measures taken to ensure that child labour is not used or supplied by private employment agencies.*

3. *The Committee reiterates its interest in receiving more detailed information in the Government's next report on the measures adopted to apply in Ethiopia the provisions of the Convention which are referred to specifically in a direct request.*

[The Government is asked to reply in detail to the present comments in 2008.]

Finland

Employment Policy Convention, 1964 (No. 122) (ratification: 1968)

The Committee notes the detailed information contained in the Government's report received in October 2005, as well as the appended documents and information supplied in relation to its 2004 observation, which includes the National Action Plan for Employment 2004. It also notes the comments of the Central Organization of Finnish Trade Unions (SAK) and the Commission for Local Authority Employers (KT), which were transmitted with the report.

1. *Policies to promote employment.* In reply to the Committee's 2004 observation, the Government indicates that its four inter-sectoral policy programmes (employment policy programme, entrepreneurship policy programme, information society programme and "citizen influence policy programme"), which were initiated in 2003, are progressing according to plan. The employment policy programme, which aims at reducing structural unemployment and ensuring the availability of labour, has had a positive impact since 2004, as shown by the statistics on employment which have been on an upward trend in the past few years. This programme also includes a structural reform of the public employment services, in which there has been a noticeable increase in resources directed to the labour services centres, as well as the creation of 280 new positions. As regards the entrepreneurship policy programme, the Government indicates that the corporate and capital tax base was lowered and the taxation on "generational changes" in companies was eased. Furthermore, the start-up grant system was reformed at the beginning of 2005 and is now available to unemployed persons, persons who become entrepreneurs after having been employed or done household work and anyone who has completed their studies. As regards the information society programme, the Government indicates that approximately half of the 1.5 million citizens who were lacking information technology and communication skills in 2000 acquired them during the period 2000–03.

2. *Active labour policy measures.* The Government indicates that, in accordance with EU goals, attempts have been made to activate people who are unemployed and outside the labour market with various types of measures. The Government is seeking to improve employment by 100,000 persons by the end of 2007 and trying to achieve an employment rate of 75 per cent by 2011. Regarding young people, the aim is to reduce unemployment among this category through vocational training and an active social policy. According to a special guarantee provided by the law, every jobseeker under the age of 25 will be offered an "active option" for a job that improves his/her situation when the person has been unemployed continuously for three months. The Government's target is that, by 2008, at least 96 per cent of those completing comprehensive school should move on during the same year to upper secondary school, vocational training or additional comprehensive education. With regard to female workers, the Government recalls that the strong position of women on the labour market is based on the high level of education. Nevertheless, the Government initiated in 2005 an ongoing programme intended to increase the number of women in middle and upper management positions.

3. With regard to older workers, the Committee notes that the employment and activity rate of that group has been increasing regularly over recent years. The Government mentions in this regard the VETO programme which is intended to extend professional careers by making work more appealing, developing the work environment and work community, encouraging lifelong learning as well as promoting rehabilitation. Furthermore, the restrictions on early retirement and part-time employment for senior employees introduced in the part-time pension system have had a positive influence on keeping these workers in the labour market. Regarding immigrants, the Government indicates that their employment situation has improved due to higher demand for labour in the service sector and the fact that an increasing number of employers have had positive experiences in hiring immigrants.

4. The Committee further notes the Government's efforts to develop active labour policy programmes and skills. To this effect, the Government is preparing an employment support system reform that should be introduced in 2006. The planned changes are expected to increase subsidized employment by creating jobs for jobseekers. According to the Government, the current system, too detailed in its current form, has not encouraged companies to use it and therefore hopes that the reform will increase the active use of labour market support. The Committee also notes that the major goals of the Government's labour policy strategy include an unemployment rate of 6 per cent by 2007 and 5 per cent by 2010, keeping employees in working life two or three years longer than previously and improving the employment rate among

senior employees. *The Committee looks forward to being provided in the Government's next report with an assessment of the impact of its active labour market measures, including information on the extent to which these measures, and in particular the initiatives taken to keep older workers in employment longer, have been successful in achieving its objectives of increasing the labour force and reducing unemployment. Please also continue to supply detailed disaggregated information on labour market trends (Articles 1 and 2 of the Convention).*

5. *Participation of the social partners in the formulation and application of policies.* In reply to the Committee's previous observation, as well as comments formulated by the social partners, the Government indicates that, when drafting legislation on employment services, the social partners, who are members of the Labour Policy Delegation, had the opportunity to discuss the draft on six different occasions in 2002. In addition, the social partners had an opportunity to give their comments during the legislative process. *The Committee notes this information and, taking into account the comments formulated by the Central Organization of Finnish Trade Unions (SAK) and the Commission for Local Authority Employers (KT), it asks the Government to keep providing information on the consultations held with representatives of the persons affected, both at the stage of formulating employment policies and in relation to the implementation of the measures adopted under such policies (Article 3).*

France

Employment Service Convention, 1948 (No. 88) (ratification: 1952)

1. *Contribution of a free public employment service to employment promotion.* The Committee notes the information contained in the Government's report received in February 2006 covering the period ending 1 September 2005. In particular, it notes the adoption of Act No. 2005-32 of 18 January 2005 establishing the programming for social integration, which revised the organization of the public employment service, and of the Decree of 2 August 2005 on follow-up measures for jobseekers. The Committee notes the end of the legal monopoly of the National Employment Agency (ANPE) for the placement of jobseekers, thereby enabling private employment agencies and temporary work agencies to engage in employment placement activities. The obligation for employers to notify vacancies only to the ANPE has been abolished. The Government states that, in exchange for the end of the employment placement monopoly from which it has benefited up to now, the ANPE has now been granted the possibility of establishing branches to discharge its functions and to charge enterprises fees for the use of its services, except from jobseekers (section L.311-7(3) and (4) of the Labour Code). The Committee notes that a decree is due to be adopted in the Council of State to determine the provisions, including financial rules, under which the ANPE will be able to operate, so as to preserve the quality of the service provided to users and prevent any distortion of competition with private operators. *With reference to its 2006 observation on the application of the Employment Policy Convention, 1964 (No. 122), the Committee requests the Government to continue reporting on the measures adopted to maintain or ensure the maintenance of a free public employment service, within the meaning of Article 1, paragraph 1, of the Convention.*

2. *Development of employment offices throughout the territory.* The Government indicates that by redrawing, through the adoption of the Act of 18 January 2005, the limits of the public employment service and by extending the service, the intention is to improve the manner in which unemployment is addressed by making the labour market more dynamic and establishing a firm basis for employment policies throughout the territory. The Committee notes in this respect that, with a view to improving the effectiveness of the public employment service, the Act of 18 January 2005 envisages the establishment of 300 "employment centres", with the objective of ensuring better cooperation between the various actors in the public employment service in urban areas and employment zones. The Government states that, by the end of 2005, a total of 103 employment centres had been designated, with 200 being envisaged by the end of 2006. *The Committee requests the Government to continue reporting on developments relating to the measures adopted to establish and locate sufficient employment offices to serve the needs of employers and workers in each geographical area (Article 3).*

3. *Cooperation with the social partners.* The Government indicates that, in response to the need to coordinate the principal actors in the public employment service, section L.311-1(4) of the Labour Code envisages the conclusion of a multi-year tripartite agreement between the State, the ANPE and UNEDIC, so as to determine the functions and resources of the ANPE and UNEDIC for the implementation of this public employment service. *With reference to Article 4 of the Convention, the Committee requests the Government to indicate the arrangements made to secure the cooperation of employers' and workers' representatives in the organization and operation of the employment service and in the development of employment policy.*

[The Government is asked to reply in detail to the present comments in 2007.]

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1953)

Part II of the Convention. Progressive abolition of fee-charging employment agencies. Revision of Convention No. 96. The Committee notes the Government's report received in February 2006 for the period ending 1 September 2005. It notes with interest the Government's statement that the revision of the public employment service, introduced by Act No. 2005-32 of 18 January 2005 establishing the programming for social integration, forms the basis of the new dynamic

to which the Government aspires, so as to achieve conformity with the provisions of the Private Employment Agencies Convention, 1997 (No. 181), and accelerate the reintegration of the unemployed into working life by allowing private operators to enter the employment market. In this respect, the Committee recalls that Convention No. 181 is based on an acknowledgement of the role played by private employment agencies in the operation of the labour market and that its ratification would involve the immediate denunciation of Convention No. 96. ***As the provisions of Convention No. 96 remain in force until the ratification of Convention No. 181 becomes effective, the Committee requests the Government to provide information in its next report so that it can examine the application in law and practice of the matters raised this year in a direct request (Parts IV and V of the report form).***

[The Government is asked to reply in detail to the present comments in 2007.]

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

1. *Labour market trends and active employment policy.* The Committee notes the Government's report received in October 2005, covering the period ending October 2004, and the comprehensive documentation attached. The Committee notes that, during the period under consideration, the employment rate remained stagnant (62.5 per cent in 2003 and 62.4 per cent in 2004) and that it was lower relative to the European average of 63.3 per cent (the target set within the framework of the European Employment Strategy is 70 per cent by 2010). The Committee notes the information provided in the National Action Plans for Employment (PNAE) for 2003 and 2004, and, in particular, the fact that improving the dynamism of the labour market and creating sustainable employment constitute one of the Government's main priorities. In this regard, the Committee notes the various measures to promote economic activity, which are listed in the Government's report (reduction of employers' social security contributions, the new scale for the *prime pour l'emploi* (working tax credit) in 2003, and measures to facilitate the creation of enterprises). ***The Committee would be grateful if the Government would provide information on the results achieved through the implementation of recently adopted and ongoing measures, and indicate the strategic employment policy priorities targeted by these measures (Articles 1, paragraph 1, and 2 of the Convention).***

2. *Labour market policies for young people.* The Committee notes that during the period examined, the OECD standardized unemployment rate remained stagnant (9.5 per cent in 2003 and 9.6 per cent in 2004), whilst the youth unemployment rate rose to over two times that of the active population as a whole (from 20.1 per cent in 2003 to 21.3 per cent in 2004). The Committee notes that, according to the Government's report, 57,000 young people who had been unemployed for one year were to be interviewed individually by the National Employment Agency before the end of September 2005, and that the number of work placement contracts (CAE) was to be increased from 20,000 to 100,000. The Government indicates that one of the objectives of the employment policy for young people is to bring them closer to enterprises by strengthening work-based training and by facilitating their direct integration into enterprises. To realize this objective, the Government has established various subsidized contracts for those who are least qualified: the *contrat jeunes en entreprise* (young people in the enterprise contract); the *contrat d'insertion des jeunes dans la vie sociale* (integration of young people into society contract); and the *contrat soutien à l'emploi des jeunes en entreprises* (support for the employment of young people in enterprises contract). The Committee notes that, with regard to young people who have left school without any diplomas or qualifications (in 2003, 19.1 per cent of young people of 22 years of age had no secondary school diploma), an adapted military service offering recognized training and supervision will be proposed to those who are interested. This scheme aims to provide training for 20,000 young people in 2007. In this regard, the Committee refers to paragraph 9 of the *Conclusions on promoting pathways to decent work for youth*, adopted at the 93rd Session of the Conference, which states that whilst employment cannot be directly created but only encouraged by legislation or regulation, it is recognized that labour legislation and regulation based on international labour standards can provide employment protection and underwrite increased productivity, which are basic conditions in order to create decent work, particularly for young people. ***The Committee invites the Government to provide information in its next report on the results achieved through measures taken to promote decent employment for young people, particularly for those who have few or no qualifications (Article 1, paragraph 2).***

3. *Labour market policies for older workers.* The Committee notes that the employment rate for older workers is one of the lowest in the European Union (37 per cent in 2004) and that, in this respect, the Government refers in detail to the provisions of the Act of 21 August 2003 reforming pensions, which envisages prolonging the period of insurance and thus the working life of a worker, by encouraging workers over 55 years of age to remain in employment, particularly by limiting recourse to early retirement pensions and by creating work opportunities for those over 60 years of age. Annual negotiations in enterprises must now address, every three years, the issue of access to employment for older workers, the retaining of such workers in employment, and their access to vocational training. ***The Committee invites the Government to provide, in its next report, information on the results achieved through the measures taken to promote the continued employment and reintegration into the labour market of older workers (Article 1, paragraph 2).***

4. *Education and training policies.* The Committee notes that since 2002, long-term unemployment has risen significantly (from 33.8 per cent in 2002 to 41.7 per cent in 2004). The Government indicates that the New Start Personalized Action Programme (PAP-ND), which, in July 2001, reformed the system for monitoring the unemployed, enabled the number of return-to-work assistance benefits to increase by 84 per cent between 2001 and 2002, although additional support concerned only 17 per cent of unemployed persons. The number of unemployed persons benefiting from the employment initiative contract (CIE) between their 12th and 24th month of unemployment increased due to the

relaxation of access requirements (93,000 employees were recruited in 2004). The Government also refers to the adoption of the Act of 4 May 2004 on lifelong vocational training and social dialogue, which establishes the individual right to training and contains provisions on contracts and periods of vocational integration. This Act follows the interoccupational agreement concluded by the social partners in December 2003. In response to the Committee's 2003 direct request, the Government indicates that the decentralization movement was pursued by the Act of 27 February 2002 on local democracy and the Act of 13 August 2004 on local freedoms and responsibilities, which give regional councils general competence in respect of vocational training for young people and adults who are seeking employment or a new direction in their career. They must, in consultation with the State and employers' and workers' organizations, devise a regional plan to develop vocational training for young people and adults. ***The Committee invites the Government to continue providing information on the measures adopted within the framework of education and training policies, and on their impact in terms of the sustainable integration of the most vulnerable categories of workers in the labour market.***

5. *Participation of the social partners in the preparation and formulation of policies.* In response to the Committee's 2003 direct request, the Government states that it firmly subscribes to a tradition of labour law that gives priority to collective bargaining, as witnessed by the adoption of the above Act of 4 May 2004. ***Bearing in mind the numerous initiatives taken to promote full employment, the Committee asks the Government to indicate, in its next report, the manner in which the representatives of the persons affected were consulted when policies were prepared and formulated "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" (Article 3).*** The Committee recalls, in this regard, that it is the joint responsibility of governments and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of the measures of which they should be the prime beneficiaries (2004 General Survey on promoting employment, paragraph 493).

Germany

Employment Service Convention, 1948 (No. 88) (ratification: 1954)

The Committee notes the detailed and comprehensive information contained in the Government's report for the period ending in May 2005.

1. *Organization and functions of the employment service.* The Committee notes the numerous legislative developments referred to in the Government's report with respect to the operation of the public employment service. It notes in particular the action taken to reform the country's employment services through organizational change and a reorientation of the newly named Federal Employment Agency (BA). The primary elements of these reforms include a new institutional structure accompanied by a decentralized management system, the introduction of welcome centres in each of the Government's 180 employment agencies, an awareness programme for workers and employers on how to take advantage of employment services and counselling, call centres, as well as the development of information technologies, such as an online job market, for worker recruitment and placement. ***Given the Government's indication that the essential elements of reform were to be implemented in 2005 and 2006, the Committee asks the Government to provide detailed information in its next report on the impact of the measures implemented, and specifically on their practical impact in enhancing the capacity of the Federal Employment Agency to promote full and productive employment (Articles 1 and 6 of the Convention).***

2. *Status of employment service staff.* The Government reports that the restructuring of its employment services includes changes to the organization's staffing system. In particular, the status of civil servant will no longer apply to future staff members. Rather, new recruits will have the status of employees. The Committee notes that, in this context, the civil service rules concerning staff qualification, training and advancement will not apply to individuals with employee status. ***Noting the Government's objective to build a more flexible staff qualification system to allow the employment service to adapt quickly to the evolving needs of the labour market, the Committee asks the Government to continue providing information on the status and conditions of service of the staff of the Federal Employment Agency, taking into account the requirements of Article 9.***

3. *Cooperation between the public employment service and private employment agencies.* The Committee notes that, for the first time in 1998, the Government allowed private providers to offer vocational guidance services. It further notes that the subsequent Job-AQTIV law introduced the opportunity for jobseekers to benefit from private placement and training services. In 2004, around 635,400 people were assigned to private placement services and, in the same year, 713,800 placement vouchers worth 2,000 euros each were issued to jobseekers to be used in a placement office of their choice. The Committee recalls that Convention No. 181 and Recommendation No. 188, adopted by the International Labour Conference at its 85th Session (June 1997), recognize the role played by private employment agencies in the functioning of the labour market. ***It therefore asks the Government to provide additional information on the measures taken to ensure that cooperation between the Federal Employment Agency and private employment agencies is effective within the meaning of Article 11 of Convention No. 88.***

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

1. *Implementation of an active employment policy.* The Committee notes the information contained in the Government's report for the period ending in May 2005. Despite encouraging economic growth, the Government indicates that the resulting effects have yet to be observed on the unemployment rate which averaged 10.5 per cent in 2004 – 2.3 per cent higher than in 2002. It reports that higher growth and employment are the most important policy objectives at the Länder level and that full employment is achievable through structural reforms. Among the labour market reforms already in place, the Committee notes that the Job-AQTIV law introduced a new orientation to employment legislation. Other legislative initiatives established new forms of part-time work, greater entrepreneurial support and extended the regulations for low-paid jobs (mini-jobs), which are exempt from tax and social security contributions. Furthermore, the unemployment benefits system and social security benefits system were merged to form a unified regime called “Basic Assistance for Jobseekers” providing all the help that jobseekers require to enter the world of work and to meet their basic needs. The Committee notes from the Government's report that other legislative amendments are being prepared to facilitate the creation of new jobs, especially in small businesses and new enterprises. It also notes the Government's funding initiatives related to vocational training, job creation and structural adjustment, along with self-employment and integration incentives. ***In the light of the above measures, the Committee asks the Government to provide information in its next report on the outcome of its labour market reforms and employment promotion programmes, as well as on the consultation held with representatives of the social partners in relation to the implementation of the measures adopted (Articles 1 and 3 of the Convention).***

2. *Regional employment inequalities.* The Government reports that, despite a persistently high rate of unemployment in the new Länder in 2004, unemployment in this region fell by 24,000 between 2003 and 2004, as did the number of unemployed older workers over the age of 55 (down to 9.1 per cent). Nonetheless, unemployment levels in the new Länder remained more than twice as high as those in the old Länder (18.4 per cent versus 8.5 per cent). Among the measures taken to remedy this situation, the Government points to its renewed commitment in 2004 to the Training Programme for the East, which aims to reduce youth unemployment in the region. It also reports the extension of investment grants offering 600 million euros to strengthen the new Länder as a place for business and thereby improve local employment opportunities. ***Recalling its previous concerns in this regard, the Committee asks the Government to continue providing information on the progress achieved in reducing existing regional employment inequalities.***

3. *Specific categories of workers. Young people and women.* The Committee notes that the Government, in consultation with business associations, signed the “National Pact for Vocational Training and Young Apprentice Development” in June 2004 setting out a three-year commitment to provide training opportunities for young people. Under this agreement, businesses pledge to make an average of 30,000 training places available per year, as well as 25,000 places for entry-level qualification courses. The Committee notes from the Government's report that, by September 2004, the number of newly signed vocational training contracts rose by 22,600 over the previous year and that nearly twice the number of training places promised were created in 2004 (59,000). Additionally, under the new “Basic Assistance for Jobseekers” programme, young people receive comprehensive support for their integration into the labour market and the Government indicates that its reform agenda seeks to improve the advisory and placement services for unemployed young people through individual profiling and appropriate action programmes. With respect to women workers, the Committee notes the Eurostat figures reported by the Government showing that, despite increased employment levels, the unemployment rate among women rose from 9.5 per cent in 2002 to 10.1 per cent in 2004. It also notes that women spend, on average, more time in unemployment than men and are at greater risk than men of long-term unemployment. Nonetheless, the participation of women in active labour market policy initiatives exceeded the Government's target levels for 2003 and 2004. ***The Committee asks the Government to continue providing detailed information in its next report on the efforts made to improve the employment situation of young people and women, and the results achieved in terms of job creation as a result of the programmes adopted, particularly in the new Länder.***

Ghana

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1973)

1. *Part II of the Convention. Progressive abolition of fee-charging employment agencies conducted with a view to profit.* The Committee notes that, since 1998, the Government has not supplied reports on the application of this Convention. In relation to the information examined on the application of the Employment Service Convention, 1948 (No. 88), the Committee notes that section 7(2) of the Labour Act, 2003, provides for the establishment of private employment agencies. The Government also confirms in its report on Convention No. 88 that even though the Act allows for the establishment of private employment agencies, there are at present none in existence. Section 7 of the Labour Act, 2003, enables private agencies when established to collect fees for the services provided. The Committee notes that Members ratifying Convention No. 96 which, like Ghana, have accepted Part II of the Convention, undertake to abolish fee-charging employment agencies conducted with a view to profit. In these circumstances, the Committee observes that the provisions regarding private employment agencies contained in the Labour Act, 2003, are not in conformity with Convention No. 96.

2. *Revision of Convention No. 96.* The Committee recalls that the revision of Convention No. 96 was prompted by recognition of the role played by private employment agencies in the operation of the labour market and that the Private Employment Agencies Convention, 1997 (No. 181), is now the up to date standard in this area. It recalls that the ILO Governing Body invited the States parties to Convention No. 96 to contemplate ratifying, as appropriate, Convention No. 181, which would involve the immediate denunciation of Convention No. 96 (document GB.273/LILS/4(Rev.1), 273rd Session, Geneva, November 1998).

3. *The Committee invites the Government to report on any developments that, in consultation with the social partners, might take place by way of an appropriate follow-up to the issue raised in this observation.*

[The Government is asked to report in detail on the present comments in 2007.]

Guatemala

Employment Policy Convention, 1964 (No. 122) (ratification: 1988)

1. *Coordination of employment policy and poverty reduction.* The Committee notes the detailed information provided by the Government in relation to its 2004 comments. The Government refers to the document requested from the ILO Subregional Office on employment policy directives and decent work in Guatemala, which was submitted at the end of 2004 to the Tripartite Commission on International Labour Issues, within which an Employment Generation Subcommittee was established to examine the document, improve it and gather the views of other national bodies. The Government states that it is formulating a national employment and decent work policy to promote mass access to productive employment, improve employment levels, combat unemployment and underemployment and guarantee security of employment and income for workers. The cross-cutting themes of the employment and decent work policy are gender and indigenous peoples. *The Committee once again expresses interest in continuing to be provided with information on the manner in which the Government ensures that employment occupies a central role in macroeconomic and social policies when formulating and implementing the national Poverty Reduction Strategy and in promoting decent work.* The Committee considers that it is essential from the outset for employment objectives to be included “as a major goal” in the formulation of economic and social policy if these objectives are truly to be an integral part of the policies that are adopted (2004 General Survey on promoting employment, paragraph 490). In this respect, the Committee notes the “Tripartite Declaration for the promotion of employment and decent work in Central America and the Dominican Republic”, concluded by the Ministers of Labour and representatives of employers’ and workers’ organizations in Tegucigalpa in June 2005. It was agreed in the Tripartite Declaration, among other significant policies, to include the objective of creating worthwhile, lasting and high-quality jobs, in accordance with ILO parameters, as a central aim of macroeconomic policy, with efforts being focused not only on controlling inflation and the fiscal deficit, but also and with equal priority on the promotion of investment and equitable growth. *The Committee would be grateful if the Government would provide information in its next report on the initiatives taken with ILO support to promote, at both the national and subregional levels, the objectives of the creation of productive employment as set out in the Convention (Part V of the report form).*

2. The Government provided information on the persons registered with the Electronic Employment Exchange, the vacancies available and the persons placed in employment. It also provided information on the progress achieved in certifying skills in the firework industry and in the clothing and textiles industry. *The Committee requests the Government to provide detailed information in its next report on the situation, level and trends of employment, unemployment and underemployment, with an indication of the extent to which they affect the most vulnerable categories (women, young persons, older workers, rural workers and workers in the informal economy). The Committee asks the Government to indicate the extent to which the objectives of education and vocational training policies have been coordinated with prospective employment opportunities.*

3. The Committee recalls that it requested the Government to provide information on the impact on the local labour market of temporary or permanent movements of migrant workers. *The Committee reiterates its interest in being provided with information on the measures adopted for infrastructure development and their impact on job creation, as well as the contribution of export processing zones to the creation of lasting and high-quality employment and the impact of trade agreements on the labour market.*

4. *Participation of the social partners.* The Government states that, with a view to strengthening dialogue on employment, it is continuing to promote employment councils in relation to employment placement, human resources development and self-employment. It also adds that the Employment Directorate has convened 16 meetings of the Tripartite Employment Generation Subcommittee. The Committee refers once again to *Article 3 of the Convention*, under which consultations have to be held with representatives of all the persons affected, and in particular with representatives of employers and workers, for the formulation and adoption of employment policies. The Committee considers that it is the joint responsibility of governments and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the economically active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see 2004 General Survey, op. cit., paragraph 493). *In this respect, the Committee once again expresses interest in being informed of employment-generation proposals made by employer and worker representatives, and on the measures*

implemented by the Government as a result of the agreements reached. The Committee trusts that the Government will continue to provide information on the consultations held regarding the formulation and implementation of measures intended to achieve the objectives of full and productive employment set out in the Convention, including consultations with other sectors affected, such as representatives of the rural sector, the informal economy and the export processing sector.

Guinea

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its 2004 observation, which read as follows:

1. *Coordination of employment policy with poverty reduction.* The Committee notes the report received in February 2004 containing information on the establishment of the "employment" component of the Poverty Reduction Strategy approved in 2002. It is planned to enhance the range of vocational and technical training available, promote small and medium-sized enterprises, promote labour-intensive work and improve access to employment for women (conclusions of the workshop held in Conakry in September 2003 for approving the framework document for employment policy in Guinea). The Government also points out the distinct trend towards self-employment in the informal economy, resulting in the urgent need to set up a genuine micro-enterprise development programme. The Committee once again notes the objectives of the Labour and Employment Statistical Information Network (RISET), the establishment of which was already noted in its previous comments. ***It requests the Government to provide up to date information in its next report on the measures taken to guarantee that employment, as a key component in poverty reduction, is at the heart of macroeconomic and social policies. The Committee asks the Government in particular to provide information on the results achieved, by group such as for young people and for women, by the measures taken to improve the range of vocational and technical training available, on the promotion of small and micro-enterprises and on the jobs created by labour-intensive programmes (Articles 1 and 2 of the Convention).***

2. *Participation of the social partners in the formulation and application of policies.* The Committee recalls that Article 3 of the Convention requires consultations with all interested parties – in particular representatives of employers and workers – in the establishment and implementation of employment policies. It is the joint responsibility of the Government and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see paragraph 493 of the 2004 General Survey on promoting employment). ***The Committee trusts that the Government will include detailed information in this regard in its next report.***

3. *Finally, it once again asks the Government to describe in its next report the action taken to implement an active employment policy within the meaning of the Convention further to the technical assistance received from the ILO.*

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

Islamic Republic of Iran

Employment Policy Convention, 1964 (No. 122) (ratification: 1972)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its 2004 observation which read as follows:

1. *Formulation of an employment strategy.* The Committee notes, from the statistical data provided by the Government in its report, that the unemployment rate fell from 14.2 per cent in 2001 to 12.8 per cent in 2002, principally due to its decline in rural areas. The characteristics of the distribution of employment and of unemployment which gave rise to concern remain however: the activity rate of women is still extremely low and they continue to experience a higher unemployment rate than men, and the proportion of long-term unemployment in total unemployment rose once again, as 70.9 per cent of the unemployed in 2002 had been seeking a job for more than one year, compared with 66 per cent in 2001. In this context, the Committee, which notes the fundamental importance given to job creation in both the Third and draft Fourth Five-Year Plans, notes with interest the Government's reference to the formulation of an employment strategy in collaboration with ILO employment specialists. Following a national workshop, held on 30 June and 1 July 2003, and bringing together representatives of the various ministries concerned, employers' and workers' organizations, non-governmental organizations, universities and researchers, a report was prepared for the Government containing a series of recommendations on short-term measures and the long-term strategy covering macroeconomic policy, labour market and industrial relations policies, skills development, the creation of employment through small and medium-sized enterprises, the promotion of gender equality and social security. In the view of the Committee, taking these recommendations into consideration should promote the achievement of the objectives of the Convention, which provides that employment promotion policies and programmes shall be decided on and kept under review within the framework of a coordinated economic and social policy (*Article 2 of the Convention*). It further notes that, in addition to its contribution to the formulation of the employment strategy, the Government refers to the ILO's advisory and technical cooperation activities in relation to vocational training and the promotion of women's employment. ***It requests the Government to indicate any actions taken as a result of these activities, which should promote the application of the Convention (Part V of the report form).***

2. *Overall and sectoral economic policies.* The Committee notes the Government's reference to the provisions adopted in relation to investment, exports and the reduction of government monopolies as policy measures with an indirect effect on employment. ***Recalling that, under the terms of the Convention, the measures to be taken to achieve employment objectives should be decided on and kept under review "within the framework of a coordinated economic and social policy" (Article 2(a)), the Committee requests the Government to indicate the manner in which the overall and sectoral economic policies contribute to the promotion of full, productive and freely chosen employment.***

3. *Labour market and training policies.* The Committee notes the various incentives for recruitment based on the reduction of employers' contributions and tax incentives for investments which create employment in the less developed regions.

It asks the Government to provide any available assessment of the results achieved through these measures. The Committee notes that the Government has undertaken to modernize the employment services and the employment information system. It requests it to report on the progress achieved in this respect. *Also noting the emphasis placed on the reinforcement of the training system, and on the need for better coordination of education and training policies with the objective of full employment, the Committee requests the Government to describe the measures adopted for this purpose.* With reference to its comments on the application of Convention No. 111, the Committee notes with interest the information on the increase in the participation of women in apprenticeship and vocational training activities. *It requests the Government to continue providing such information, with an indication of the measures adopted to ensure that this progress is translated into an increase in the participation rate of women in economic activity.* In this respect, the Committee notes the relevant recommendations adopted by the Conference on the Promotion of Women's Employment, Autonomy and Equality, held on 8 and 9 March 2004 under the auspices of the Ministry of Labour and Social Affairs and the ILO.

4. *Participation of the social partners in the formulation and application of policies.* With reference to the requests that it has been making for several years, the Committee once again asks the Government to indicate the manner in which effect is given to Article 3 of the Convention. The Committee emphasizes once again the importance of this Article which provides that representatives of the persons affected by the measures to be taken, and in particular representatives of employers and workers, shall be consulted concerning employment policies. Please indicate whether procedures have been established for the purpose of holding such consultations and whether representatives of persons engaged in the rural sector and the informal economy are associated with such consultations.

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

Italy

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

The Committee notes the detailed information contained in the Government's comprehensive report received in October 2005, as well as the relevant documents attached. It also notes the comments made by the Italian Confederation of Workers' Unions (CISL) and the General Confederation of Italian Trade Unions (CGIL).

1. *Employment trends and active labour market measures.* Supplemented by the data published by the OECD, the report demonstrates that, although the unemployment rate continued to decline (from 8.6 per cent in 2003 to 8 per cent in 2004), employment growth showed a marked slowdown and the employment rate (57.6 per cent in 2004) remained below the EU target. The Committee also notes that the labour market is still characterized by regional segmentation, with relatively high levels of employment and productivity in the north and the centre, and the opposite in the south. The report also highlights the labour market integration difficulties experienced by young persons under 25 years of age, whose unemployment rate stood at 26.2 per cent in 2004, as well as a persistently high proportion of long-term unemployment. In its comments, the CGIL points out that the Government has lacked the will to direct public resources to research, training and innovation, in order to assert a competitive strategy for the Italian economy on products and services of high added value, and that it has instead focused on unfair and inefficient tax cuts. *In this regard, the Committee asks the Government to provide information in its next report on the effectiveness of the programmes adopted and the measures taken to promote territorial cohesion in order to fill the gap between the various regions of the country as regards the level of employment. It also asks the Government to continue to provide information on the measures taken and the results achieved in reducing the proportion of long-term unemployment.*

2. The Committee notes that the Government's report refers to Act No. 30/2003 and implementing Decree No. 276/2003 concerning the regulation of the labour market. The report also lists a number of measures adopted by the Government mainly to promote labour market flexibility. For instance, labour contracts that include a training component have been rationalized, while more flexible forms of entering the labour market have been facilitated. According to the CGIL, and contrary to what had been previously announced by the Government, the measures implementing Act No. 30/2003 have not been the subject of any evaluation by the social partners and the new types of labour contracts have had little success. For its part, the CISL also calls for flexibility to be subject to the outcome of collective bargaining, in order to ensure that the use of these new labour contracts remains in the framework of the applicable legislation, thereby protecting the workers concerned. *In this regard, the Committee asks the Government to report on the measures taken to generate sustainable employment and improve employment security for workers who have benefited from the provisions of Act No. 30 of 2003. The Committee also asks the Government to keep providing information concerning the implementation, monitoring and evaluation of its policies to facilitate the full employment of women, combat youth unemployment and facilitate the continued participation of older persons in the labour force (Articles 1 and 2 of the Convention).*

3. While the Committee notes that the Government cites the strengthening of education and training as one of its main employment priorities, data published by the OECD Economic Survey (November 2005) exhibit a significant deficit in terms of human capital vis-à-vis the OECD average. *In this regard, the Committee asks the Government to provide further information on its programmes and measures to raise the educational attainment of the workforce, reduce the school drop-out rate and increase the labour market relevance of tertiary education with a view to facilitating the transition from studies to work.*

4. *Participation of the social partners in the formulation and application of policies.* The Government indicates that all the legislation regarding the reform of the labour market was the outcome of a long period of dialogue with employer

and trade union organizations. The Government also emphasizes that the National Plan of Action for Employment was the subject of consultations with employer and trade union organizations and that, during the period covered by the current report, continuous and in-depth discussions took place on all issues related to employment policies. On this issue, the CISL indicates that there has been a systematic deterioration in trade union participation in government decisions. The CISL states that the Government has replaced a concerted exchange of views and social dialogue with mere consultation. According to the CISL, the 2005 National Plan of Action for Employment was established without due consultation with the social partners. ***The Committee recalls that, under the terms of the Convention, the measures to be taken in relation to employment policy should take fully into account the experience and views of the social partners with a view to securing their full cooperation in formulating and implementing employment policies. It requests the Government to provide detailed information in its next report on the consultations held with the representatives of the social partners and the progress achieved regarding the requirement of consultation on the matters covered by the Convention, as established in Article 3.***

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 2000)

1. The Committee notes the useful information provided by the Government in November 2005 in reply to its previous direct request, particularly on the new rules adopted under Act No. 30 of 14 February 2003 and the Legislative Decrees of 10 September and 23 December 2003, and 5 May 2004, and the national collective labour agreement of 2 July 2004, for the distribution and services sectors (*Articles 11 and 12 of the Convention*).

2. The Committee notes that agencies are now allowed to place workers in employment in the agricultural sector. The Government also reports the establishment of a computerized system (the permanent national labour exchange), which should make it possible for national and regional authorities, with the assistance of private actors, to make the activities of employment services and assistance measures for underprivileged workers more effective. In June 2005, some 445 agencies were registered and had received approval from the Ministry of Labour and Social Policy. In its observations, the Italian General Confederation of Labour (CGIL) indicates that, despite the legislative changes, there are still only two private employment agencies (*società di intermediazione privata*): to understand the relatively low number of private agencies in Italy it is necessary to refer, not to any rigidity in the legislation, but to the small scope of the market and the need for specific skills to ensure the credibility of private agencies on the Italian labour market. The CGIL also expresses concern with regard to the implementation at the regional level of measures to promote the employment of underprivileged workers in temporary employment. The trade union organization observes that the placement in employment of underprivileged workers should not be excluded from the activities of public employment services. ***The Committee requests the Government to provide more detailed information in its next report on cooperation between the national and regional employment services and private employment agencies in relation to the placement in employment of underprivileged workers. It also requests the Government to continue reporting on the manner in which the public authorities retain final authority for formulating labour market policy and for utilizing or controlling the use of public funds earmarked for the implementation of that policy (Article 13, paragraphs 1 and 2).***

3. ***The Committee also requests the Government to continue providing information on the implementation of measures to ensure that migrant workers, either recruited or placed in employment in Italy by private agencies, enjoy adequate protection (Article 8).***

4. The Committee notes the penalties which may be imposed under Legislative Decrees Nos. 276 of 10 September 2003 and 251 of 6 October 2004. ***It requests the Government to indicate in its next report the number and nature of the infringements reported in relation to the activities of private employment agencies (Articles 10 and 14 and Part V of the report form).***

Jordan

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

1. *Coordination of employment policy and poverty reduction.* The Committee notes the detailed information contained in the Government's report received in October 2005. The Government indicates that, within the framework of its national strategy on poverty reduction and job creation, it has implemented a programme designed to achieve balanced regional development. This programme seeks to activate the role of popular participation in the management of development, to identify development planning indicators which can help in preparing, carrying out and evaluating strategic development plans, and in activating and promoting the use of information technology. The Government also refers to a programme aimed at promoting economic and social productivity in relation to the development of rural communities, and the promotion of productivity and infrastructures to support investment. It indicates that, by the end of 2004, this programme had succeeded in providing 6,465 permanent jobs and 1,400 temporary jobs. With regard to the manner in which the employment objectives have been taken into account in the adoption of general economic policy measures in areas such as monetary and budget policy or commercial policy, the Government explains that it has been promoting a policy of economic openness and trade liberalization with the goal of creating an attractive environment for business in order to increase local and foreign investment. It also mentions the free trade agreement signed with the United States, which includes labour provisions that reiterate the country's commitments in relation to the ILO to respect and protect workers' rights. ***The Committee welcomes the measures adopted, which are in line with the Convention, and***

asks the Government to keep it informed of the progress achieved through its various programmes and the manner in which the measures adopted have contributed to the creation of productive and sustainable employment. Please also provide information in the next report on the other measures taken to ensure that employment, as a key component of poverty reduction, is at the heart of macroeconomic and social policies (Articles 1 and 2 of the Convention).

2. In reply to the Committee's previous comments, the Government provides detailed statistics, contained in the National Survey on Labour and Unemployment 2005, indicating the number of workers by age, sex, level of education and sector. The Committee notes that the overall unemployment rate for the first quarter of 2005 was 13.4 per cent, but stood at 19.7 per cent for women, while the employment rate for women remained very low. ***The Committee asks the Government to continue to communicate statistical data in its next report on the situation and trends in employment, unemployment and underemployment, in particular with regard to female workers.***

3. *Labour market and training policies.* The Committee notes with interest the measures taken to strengthen the vocational training systems and adapt them to the needs of the labour market. The Government indicates in particular that the Higher Council for Technical and Vocational Education and Training was set up. Furthermore, the Vocational Training Institute contributes to the integration of its recipients into the labour market, and also undertakes studies on the training needs of the labour market as well as the follow-up of graduates. The Institute, which has, among others, 14 training centres especially for women, provides training programmes at the apprentice level and for high-level vocational training. The Government indicates that 4,816 women joined the national training programmes, of whom 4,411 have graduated. ***The Committee asks the Government to continue to provide information on the programmes implemented in relation to vocational training and the manner in which they have contributed to the integration of their beneficiaries, particularly women, in employment.***

4. *Consultation of the representatives of the persons affected.* The Government indicates that it has adopted a participatory approach in the preparation of the recent development plan, as well as in the preparation of various national reports. It emphasizes that representatives of trade unions, as well as the private sector are part of the composition of national councils and that they participate in the work of the Vocational Training Institute, the Social Security Institute and the Vocational and Technical Education and Training Council. ***The Committee requests the Government to continue providing information on the issues raised by the social partners and on the manner in which their opinions have been taken into account in the formulation of employment policy. Please also indicate the measures taken or contemplated in order to involve not only employers' and workers' representatives, but also the representatives of other categories of the active population, such as persons working in the rural sector or the informal economy, in these consultations (Article 3).***

5. *ILO technical cooperation.* The Government indicates that a number of projects have been carried out by the Ministry of Labour in collaboration with the ILO, namely: (a) the Social Dialogue Project which aims to set up a National Committee for Social Dialogue and establish a Jordanian Social and Economic Council; (b) a Project for the Reduction of Child Labour, which includes seven training workshops in order to promote the capacity of inspectors and the training of trainers on child labour; and (c) a Project to Develop the Capacity of Employees of the Ministry of Labour, which includes five national projects aimed at strengthening the Ministry's capacity. ***The Committee asks the Government to keep it informed on the results achieved in relation to the coordination of an active employment policy as a result of the implementation of these projects. In particular, the Committee requests the Government to report on any consultation on its employment policy held by the National Committee for Social Dialogue (Part V of the report form).***

Kyrgyzstan

Employment Policy Convention, 1964 (No. 122) (ratification: 1992)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2005 observation which read as follows:

1. *Coordination of employment policy with poverty reduction.* The Committee takes note of the Government's report requested by its 2004 observation. The Government enumerates the aims of the National Employment Policy, which was established in the context of the national poverty reduction strategy 2003–05, and was approved by Decree No. 126 on 14 March 2005. The objectives of the employment policy aimed, amongst others, at assisting unemployed citizens in choosing an occupation and placement; improving vocational training and retraining for unemployed; organizing temporary employment and voluntary work; preventing the rise of unemployment by eliminating or reducing the effect of the factors which lead to mass unemployment; and supporting entrepreneurship and self-employment. The Government further indicates that the employment rate fell slightly from 92.5 per cent in 2000 to 91.1 per cent in 2003. The unemployed young people account for 53 per cent of all unemployment and remain one of the most problematic issues (as mentioned in the Poverty Reduction Strategy Paper Progress Report of July 2004). In 2001, the poverty rate was estimated by the World Bank to be quite high between 45 per cent and 56.4 per cent. The Committee also notes the Government's indication that the goals of employment policies and their relation to social and economic development are reflected in the programme on the "Comprehensive basis of development of the Kyrgyz Republic until 2010", which was adopted on 29 May 2001. ***The Committee hopes the Government will supply, in its next report, information on the measures taken to ensure that employment, as a key element of poverty reduction, is central to macroeconomic and social policies.*** Indeed, the Committee considers that it is essential from the outset for employment objectives to be included "as a major goal" in the formulation of economic and social policy if these objectives are truly to be an integral part of the policies that are adopted (paragraph 490 of the General Survey of 2004 on promoting employment). ***Please provide detailed information on the results and progress achieved with the implementation of the measures envisaged by the***

National Employment Plan, including information on the employment situation of socially vulnerable groups such as women, young persons and older workers (Articles 1 and 2 of the Convention).

2. The Committee also requests the Government to include in its next report, information on the following matters that were raised in its 2004 observation:

- training and retraining measures for workers affected by structural reforms (such as the declining of the Kumtor gold mine);
- the impact of the different programmes the Government has adopted that concern specific groups of workers, such as the “National programme *Zhashtyk* on youth development until 2010” and the “State programme *New Generation* for the protection of children’s rights”.

3. *Participation of the social partners.* The Government reports that a tripartite committee has been created to regulate issues of employment promotion, which held its first session on 17 May 1999. The basic tasks of the tripartite committee were the preparation of the national employment policy up to 2010; the development of corresponding measures to determine future directions in reducing tensions in the labour market; and the development of proposals to introduce amendments in Kyrgyz legislation on employment promotion and other regulatory acts in application of employment policy. ***The Committee invites the Government to continue to provide specific information about the operation of the abovementioned tripartite committee, as well as the involvement of social partners in the formulation and implementation of the National Employment Plan. Please also indicate the measures taken or contemplated to involve in the consultations required by the Convention, the representatives of other sectors of the active population, such as persons working in the rural sector or in the informal economy (Article 3).***

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

Myanmar

Unemployment Convention, 1919 (No. 2) (ratification: 1921)

Advisory committees on the operation of free public employment agencies. Further to its previous observation, the Committee notes the information provided by the Government in September 2006 on the operation of the free public employment network under the Department of Labour. It recalls that, under *Article 2, paragraph 1, of the Convention*, “committees, which shall include representatives of employers and of workers, shall be appointed to advise on matters concerning the carrying on of these agencies”. In its report, the Government indicates that selection for employment for the public sector is controlled by public service organizations. For the cooperative sector and the private sector, selection for employment is managed by the employers concerned. The Government adds that the existing labour laws are submitted to the Laws Scrutiny Central Body for reviewing and amending. It further reports that, after the New State Constitution is promulgated, new labour laws will be adopted. ***The Committee refers to its previous comments and expresses the firm hope that the future legislation will ensure the establishment of free and independent workers’ organizations for the purposes of consultation on the operation of free public employment agencies, as required by the Convention. It further asks the Government to report on the measures taken to combat unemployment in the country (Article 1).***

Nigeria

Employment Service Convention, 1948 (No. 88) (ratification: 1961)

1. *Contribution of the employment service to employment promotion.* In its 2004 observation, the Committee requested the Government to report in detail on the application of the Convention. In June 2006, the Government reported that a total of 6,640 applicants were registered in the Employment Exchange and Professional and Executive Registries in 2005. Of these, 1,516 applicants were placed in employment, while a total number of 1,989 vacancies were notified. In reply to a request by the Office for supplementary information, the Government provided, in August 2006, figures on the impact of the National Economic Empowerment and Development Strategy (NEEDS) concerning the training of youth under the Vocational Skills Development Programme between 2002 and 2005. The Committee notes that NEEDS covers small-scale enterprise programmes, rural employment promotion programmes, assistance for self-employment, special public work programmes and women’s cooperatives. The Committee notes again, as pointed out by NEEDS, that since manufacturing is stagnant there are few jobs for the growing urban population, and urban unemployment was estimated at 10.8 per cent in 2004. NEEDS policies are expected to create about 7 million new jobs by 2007, by making it easier for private enterprises to thrive by training people in skills relevant for the world of work and by promoting integrated rural development in collaboration with the States. The Committee hopes that the Employment Exchange and Professional Executive Registries will effectively perform their essential task within the meaning of the Convention, that is, of ensuring, in accordance with *Article 1, paragraph 1, of the Convention*, the best possible organization of the employment market for the achievement and maintenance of full employment and for the development and use of productive resources. ***The Committee therefore requests the Government to report on the measures taken, in cooperation with the social partners, so that the public employment service is run efficiently and free of charge, and that it comprises a network of offices sufficient in number to meet the specific needs of jobseekers and employers countrywide. It also asks the Government to describe in its next report the activities of the employment service and the effects noted or expected on employment as a result of implementing its poverty reduction strategy.***

2. The Committee further requests the Government to include in its next report statistical information published in annual or periodical reports on the number of public employment offices established, applications for employment received, vacancies notified and persons placed in employment by such offices (*Part IV of the report form*). Please also provide information on the following matters:

- *consultations held with representatives of employers and workers on the organization and operation of the employment service and the development of employment policy (Articles 4 and 5);*
- *the manner in which the employment service is organized and the activities which it performs in order to carry out effectively the functions listed in Article 6;*
- *the activities of the public employment service concerning the various occupations and industries, as well as particular categories of jobseekers that are in socially vulnerable positions, in particular workers with disabilities (Article 7);*
- *measures proposed by the employment service to assist youth in finding suitable employment (Article 8);*
- *measures proposed by the employment service, with the cooperation of the social partners, to encourage the full use of employment service facilities (Article 10);*
- *measures taken or envisaged by the employment service to pursue cooperation between the public employment service and private employment agencies (Article 11).*

Pakistan

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1952)

1. *Part II of the Convention. Progressive abolition of fee-charging employment agencies conducted with a view to profit.* The Government refers in a report received in February 2006 to the operation of the Overseas Employment Corporation (OEC), which operates in the public sector and has been able, to date, to dispatch 125,000 Pakistanis in various professions for employment abroad. The OEC is utilizing modern techniques by striving to obtain maximum job opportunities for Pakistanis abroad. Foreign employers are required to ensure completion of the necessary documentation and to seek permission from the concerned Protector of Emigrants. Foreign employers initiate the process of recruitment by inviting applications from the general public, including interviews and tests. Neither regional nor provincial quotas are followed in the selection of workers. The Government also states that the Overseas Employment Promoters (OEPs) operate in the private sector and have established an association, that is, the Pakistan Overseas Employment Promoters' Association (POEPA), along with provincial and regional heads. The POEPA deals with the issues and grievances confronted by the OEPs while processing the recruitment of Pakistanis for placement abroad. There exists a close liaison between POEPA and the Ministry of Labour, Manpower and Overseas Pakistanis to resolve issues and problems that are faced from time to time. The Ministry – under section 12 of the Emigration Ordinance, 1979 – has issued 2,265 licences – out of which 1,180 are actively functioning in the recruitment business.

2. In relation to the abolition of fee-charging employment agencies, as required by *Part II of the Convention*, the Government reiterates that draft rules have been framed to regulate the operation of fee-charging employment agencies. The Government also confirms that the policy of renewal of licences for OEPs is made for a period of one, two or three years. In relation to *Article 9* of the Convention, the Government indicates that due to the economic conditions of Pakistan, levies have been established for migrant workers. Therefore, the Government is not in a position to adopt a policy of abolishing fee-charging employment services for migrant workers. It also adds that punitive action is taken against those OEPs that are involved in violations of the Emigration Ordinance, 1979, and Emigration Rules, 1979.

3. The Committee recalls the comments made by the All Pakistan Federation of Trade Unions (APFTU) on the application of the Convention, which were forwarded to the Government in June 2005. The APFTU stated that agencies are allowed to charge fees for recruitment abroad and that some of them are involved in human trafficking.

4. The Committee also recalls that in 1977 it noted the enactment of the Fee-Charging Employment Agencies (Regulation) Act, 1976, which provided for the licensing of fee-charging employment agencies and empowered the public authorities to prohibit all or any fee-charging employment agencies in any area where a public employment service has been set up. According to section 1(3) of the Act, the Act would come into full force when the federal Government notified the same in the *Official Gazette*. The Committee has from time to time requested the Government to take the necessary steps to bring the Act into operation in order to achieve the aim of *Part II* of the Convention, that is the progressive abolition of fee-charging employment agencies conducted with a view to profit. ***Taking into account the lack of progress in achieving the abolition of fee-charging employment agencies, the Committee asks the Government to provide information in its next report on the following issues:***

- *the measures taken to abolish fee-charging employment agencies, the numbers of public employment offices and the areas served by them (Article 3, paragraphs 1 and 2);*
- *the measures taken to consult employers' and workers' organizations as regards the supervision of all fee-charging employment agencies (Article 4, paragraph 3);*

- *with regard to overseas employment promoters, the measures taken to ensure that these agents may only benefit from a yearly licence renewable at the discretion of the competent authority (Article 5, paragraph 2(b)) and charge fees and expenses on a scale submitted to and approved by the competent authority (Article 5, paragraph 2(c)).*

5. *Revision of Convention No. 96 and protection of migrant workers.* The Committee recalls that, in March 2006, a *Multilateral Framework on Labour Migration* has been published by the ILO which includes non-binding principles and guidelines for a rights-based approach to labour migration. It provides particularly for the licensing and supervision of placement services for migrant workers in accordance with the Private Employment Agencies Convention, 1997 (No. 181), and its Recommendation (No. 188). Convention No. 181 recognizes the role played by private employment agencies in the functioning of the labour market. The ILO Governing Body invited the States parties to Convention No. 96 to contemplate ratifying, as appropriate, Convention No. 181, the ratification of which would involve the immediate denunciation of Convention No. 96 (document GB.273/LILS/4(Rev.1), 273rd Session, Geneva, November 1998). ***The Committee invites the Government to keep it informed of any developments which, in consultation with the social partners, might occur to ensure full application of the relevant international labour standards for the placing and recruitment of workers abroad (Article 5, paragraph 2(d), of the Convention).***

[The Government is asked to report in detail to the present comments in 2008.]

Russian Federation

Employment Policy Convention, 1964 (No. 122) (ratification: 1967)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2005 observation which read as follows:

1. *Integration of an active employment policy with economic and social policy.* The Committee notes the detailed information on the labour market situation, on the activities of the employment service in 2003 and 2004, and on the legislative amendments to the law concerning employment provided by the Government's report received in October 2004. The Government indicates that the number of people employed was around 66 million. The unemployment rate as of mid-2004 was 8.5 per cent, with a total of 6,133,000 workers unemployed, of which 1,628,000 were registered with the employment services. The number of workers dismissed because of redundancies and closure of firms grew by 20 per cent in the first quarter of 2004 and totalled some 162,000 workers. With regard to regional disparities, the situation of the labour market was favourable in major cities like Moscow and Saint Petersburg, but high levels of unemployment were noted in some territories such as the Republic of Ingushetia and Dagestan. The Committee notes that there has been a decline in the economically active population at a time when the working age population is growing. The Committee notes that success in employment creation is linked to the successful coordination of macroeconomic policies as well as structural policies. ***It therefore asks the Government to report on how employment policy measures are reviewed regularly within the framework of a coordinated economic and social policy. The Committee also requests the Government to provide information in its next report on the difficulties encountered and the results obtained for the implementation of an integrated employment policy, in the sense of the Convention. Please also include in the report information on the employment situation of socially vulnerable groups such as young persons, women jobseekers, and dismissed workers. The Committee would appreciate continuing to receive disaggregated data on the level and trends of employment, unemployment and underemployment. Please also indicate the measures taken to reduce labour market differentials in the country and how the unemployment benefit has been expanded in order to cover a large rate of the unemployed and promote the re-entry into employment of the beneficiaries (Articles 1 and 2 of the Convention).***

2. The Committee further notes the measures taken to establish a system of quotas to promote the employment of workers with disabilities. ***It asks the Government to include information in its next report on the outcomes of the schemes implemented with a view to integrate workers with disabilities in the open labour market. It hopes that the Government will also report on the pending issues with regard to the application of the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159).***

3. *Participation of the social partners in the formulation and application of policies.* The Committee notes that the amendments introduced to the Law on Employment increased the responsibilities of the federal state authorities in relation with employment policies and that the level of the unemployment benefit will also be decided by the federal Government. In this regard, the Committee recalls that Article 3 of the Convention provides that the measures to be taken in relation to employment policy should take fully into account the experience and views of the representatives of employers' and workers' organizations with a view to securing their full cooperation in formulating and implementing employment policies. ***It further recalls its interest to examine information on the efforts made to hold the consultations required by this important provision, and requests the Government to include in its next report indications on the manner in which the views of the representatives of persons affected by employment policy measures, including the opinions of representatives of those working in the informal economy, are taken into account so as to ensure that the objectives of the Convention are being achieved.***

4. *ILO technical assistance.* The Committee also recalls its interest in examining information on the action taken as a result of ILO technical and advisory cooperation activities in the field of employment in the framework of the programmes of cooperation between the Russian Federation and the ILO (*Part V of the report form*).

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

Sao Tome and Principe

Employment Service Convention, 1948 (No. 88) (ratification: 1982)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its 2002 observation, which read as follows:

1. *Please provide information on the arrangements made in accordance with Articles 4 and 5 of the Convention by the National Council for Social Dialogue (CNCS) or the Directorate of Public Employment Services to ensure 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.*
2. *Please indicate the manner in which the employment service is organized and the activities which it performs in order to achieve effectively the objectives and carry out the functions set out in Article 6 of the Convention.*
3. *Please also provide the detailed information requested in the report form concerning the effect given to Articles 7, 8, 9, 10 and 11 of the Convention.*
4. *Part IV of the report form. Please furnish statistical information concerning the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices.*
5. The Committee recalls that the Office is available to provide the Government with technical advice and assistance for the implementation of a public employment service within the meaning of the Convention.

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

Slovakia

Employment Policy Convention, 1964 (No. 122) (ratification: 1993)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2005 observation which read as follows:

1. The Committee notes the report provided by the Government in August 2004 and the comments supplied by the Confederation of Trade Unions of the Slovak Republic (KOZ SR) in September 2004.
2. It also notes the discussion on the application of the Convention in the Committee on the Application of Standards at the 92nd Session (June 2004) of the Conference. The Conference Committee hoped that the Government would be in a position to state in its report that the difficulties encountered in the labour market in Slovakia were being overcome and that, in particular, a more balanced regional development was being achieved, with employment created in rural areas and responses found to the specific needs of the most vulnerable workers, namely youth and the Roma population.
3. The Government indicates in its report that there has been a rising employment trend in the labour market accompanied by a decline in unemployment. From the regional aspect, the employment rate increased in all the regions – the difference between regions with the highest and the lowest employment rates declined by two percentage points. In 2003, the decline in the employment rate of young people gradually came to a halt. The Committee notes that, in spite of the positive economic growth, the employment rate in Slovakia (63.3 per cent for men and 52.2 per cent for women) remains low in relation with the European Union goals. The unemployment rate declined from 17.5 to 15.19 per cent, but remains very high for youth (34.5 per cent) and for long-term unemployment (11.1 per cent). The estimated unemployment rate of the Roma minority is extremely high, close to 70 per cent, and almost 100 per cent in the segregated settlements. Regional disparities remain considerable and are mainly caused by the Bratislava region, where strong performance seems to be in striking contrasts with the rest of the country.
4. The Government further indicates in its report that measures were taken to reduce the differences between individual regions, including financial incentives under the new Employment Services Act. The Government lists the allocations provided by the European Social Fund for individual national projects (for the support of the unemployed persons with an emphasis on the long-term unemployed and disadvantaged groups on the labour market, some €26 million were allocated; for the employment of people with disabilities, some €9 million; for training of unemployed persons, some €10 million and for the reintegration to labour market of the long-term unemployed, some €12.5 million). In this regard, the Committee recalls that, as required by the Convention, success in employment creation is linked to the successful coordination of macroeconomic policies as well as structural policies. *It therefore asks the Government to report in detail on how employment policy measures are reviewed regularly within the framework of a coordinated economic and social policy. In particular, the Committee asks the Government to provide information on the results and progress achieved with the implementation of the measures envisaged by the National Action Plan for Employment for the period 2004–06, including information on the employment situation of socially vulnerable groups such as young persons, women jobseekers, long-term unemployed and workers with disabilities. The Committee further requests the Government to include, in its next report, disaggregated data on the level and trends of employment, unemployment and underemployment. Please also indicate the measures taken to reduce labour market differentials in the country (Articles 1 and 2 of the Convention).*
5. *Equal opportunities for the Roma minority.* In reply to previous comments, the Government states that since the number of registered jobseekers from the Roma minority was not monitored statistically, it is impossible to indicate their participation in programmes implemented in the labour market. The Government further indicates that Act No. 5/2004 on employment services regulates the rights and duties of citizens in the field of employment based on civil principles and not ethnic, religious or other principles. The system integrated into the Employment Services Act is aimed at the reduction of direct and indirect discrimination in access to employment. The Committee recalls that an employment policy, in conformity with Convention No. 122, must aim at ensuring freedom of choice of employment and the fullest possible opportunity in employment and training, in particular for vulnerable groups like the Roma minority (*Article 1, paragraph 2(c)*). See also paragraph 109 of the General Survey of 2004 on promoting employment). *The Committee therefore requests the Government to also include in its next report detailed information on the effectiveness of the measures taken and the placement on the labour market of the beneficiaries of the active labour measures designed for disadvantaged jobseekers such as those of the Roma minority.*

6. *Participation of the social partners in the formulation and application of policies.* The Committee notes the comment made by KOZ SR indicating that trade unions and employers have been excluded from the active participation in dialogue which should take place in the context of the Council of Economic and Social Agreement (CESA). The KOZ SR indicates that the critical opinions of the social partners in relation to important social and economic matters were unacceptable for the Government. The KOZ SR refused to be a part of the formal evaluation of the NEP for 2003 and hopes that the Government will avoid the same mistakes with regard to the implementation of the NEP for 2004–06. The Conference Committee had urged the Government to renew its efforts to strengthen social dialogue on employment policy, as the participation of the social partners in the formulation of employment policy and in securing support for the achievement of the objective of full employment was an essential requirement of this priority Convention. The Committee recalls that *Article 3* of the Convention provides that, the measures to be taken in relation to employment policy should take fully into account the experience and views of the representatives of employers' and workers' organizations with a view to securing their full cooperation in formulating and implementing employment policies. Governments and representative organizations of employers and workers share responsibility for ensuring that representatives of the more vulnerable or marginalized sectors of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see General Survey, op. cit., paragraph 493). ***The Committee, in the same way as the Conference Committee, trusts that the Government will be able to provide indications in its next report on the progress made to obtain the involvement of the social partners in order to ensure that the objectives of the Convention are being achieved. Please also indicate the manner in which the views of the representatives of persons affected by the employment policy measures, including the opinions of representatives of the Roma population, have been taken into account with regard to the employment policy measures designed for disadvantaged jobseekers.***

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

Sudan

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2005 observation, which read as follows:

The Committee takes note of the Government's very brief report received in November 2004.

1. *Policies to promote employment and coordination with poverty reduction.* The Government indicates that it has under consideration a programme for the period 2005–06 to combat unemployment with special reference to university graduates, and lists the main elements of this programme. The Government also indicates that it is in the process of preparing, with the assistance of the ILO, the Poverty Reduction Strategy Paper. ***The Committee requests the Government to provide detailed information in its next report on the measures taken to ensure that employment, as a key element of poverty reduction, is central to macroeconomic and social policies. Furthermore, the Committee emphasizes the importance of establishing a system for compilation of labour market data and requests the Government to inform it of any progress made in this field and to provide in its next report disaggregated data on trends in the labour market, including information on the situation, level and trends of employment, underemployment and unemployment throughout the country and the extent to which they affect the most vulnerable categories of workers (such as women, young persons and rural workers). The Committee also asks the Government to inform it of the status of the Poverty Reduction Strategy Paper as well as any evaluation on the impact of its programme to combat unemployment focusing on university graduates (Articles 1 and 2 of the Convention).***

2. *Participation of the social partners in the formulation and application of policies.* The Committee recalls that *Article 3* of the Convention requires consultations with representatives of all persons affected, and particularly representatives of employers and workers, in the formulation and implementation of employment policies. It is the joint responsibility of the Government and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see paragraph 493 of the General Survey of 2004 on promoting employment). The Committee trusts that the Government will provide detailed information in this respect in its next report.

3. *Part V of the report form.* ***Finally, it requests the Government to describe in its next report the actions it has taken to implement an active employment policy within the meaning of the Convention following the technical assistance received from the ILO.***

4. The Committee underlines that the preparation of a detailed report, including the information requested in this observation, will certainly provide the Government and the social partners with an opportunity to evaluate the achievements concerning the objective of full and productive employment laid down in the Convention.

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

Swaziland

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1981)

In relation to the comments made since the ratification of the Convention, the Committee notes a brief statement contained in a report received in April 2006 indicating that there has been no change in the application of the Convention. The report further indicates that Employment Act No. 5 of 1980 is currently under review with the technical assistance of the ILO. ***The Committee asks the Government to include in its next report indications on the impact of the legislative review on 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***

placement and recruitment of workers abroad (Part V of the report form). In this connection, the Committee recalls that the ILO Governing Body has invited the States parties to Convention No. 96 to contemplate ratifying, as appropriate, the Private Employment Agencies Convention, 1997 (No. 181), which would involve the immediate denunciation of Convention No. 96 (document GB.273/LILS/4(Rev.1), 273rd Session, Geneva, November 1998). ***The Committee invites the Government to keep it informed of any developments that, in consultation with the social partners, might occur in relation to ratifying Convention No. 181.***

Tajikistan

Employment Policy Convention, 1964 (No. 122) (ratification: 1993)

1. *Implementation of an active employment policy.* The Committee notes from the letter received on 19 October 2005 containing the Government's general report that a number of legal developments relevant to the application of the Convention have taken place since the Government submitted the last report in November 1996. The Committee refers to its 2003 observation and notes in particular the approval of a State Employment Programme in March 2002. However, to evaluate the application of this Convention, the Committee considers it necessary to refer to the Government's Poverty Reduction Strategy Paper: Second Progress Report (PRSP Report), which indicates that despite an increase in the number of employed persons in 2004 (more than 100,000), the overall employment policy remained undeveloped. The Committee recalls the Government's goal set out in the PRSP prepared in 2002 of reaching 59 per cent employment by the year 2006. ***It requests the Government to indicate in its next report whether special difficulties have been encountered in attaining the objectives of full, productive and freely chosen employment. It also asks for information on other measures, such as programmes or activities designed to promote employment, and the manner in which these initiatives are kept under review within the framework of a coordinated economic and social policy (Articles 1 and 2 of the Convention).***

2. *Regional inequality.* The Committee notes from the PRSP Report that significant regional employment differences remain, with high concentrations of labour resources in the densely populated *oblasts* of Soghd and Khatlon. ***It hopes the Government will provide details in its next report on how it intends to ensure balanced regional development with particular attention paid to reducing regional employment inequalities.***

3. *Employment services.* The PRSP Report further indicates that the State Employment Service (SEC) held 193 job fairs across the country in 2004 involving 2,311 agencies and private companies. As a result of these fairs, 3,701 people received offers of employment, 2,951 joined paid public works programmes and 1,435 enrolled in vocational training. The work of the SEC is supplemented by the efforts of non-governmental and informal employment agencies, with local authorities establishing volunteer employment coordination committees. Yet, the PRSP Report points out that the SEC by and large lacks the capacity to reach out to all unemployed people. ***The Government is therefore asked to provide information in its next report on how it intends to strengthen the SEC in order to meet the needs of all unemployed persons, including vulnerable categories of workers such as women, young people, older workers and workers with disabilities.***

4. *Collection and use of employment data.* The Committee notes from the PRSP Report that the structure and dynamics of the labour market are not well understood and that the collection of unemployment data, for example, is difficult because not all unemployed persons register with the SEC. ***In view of the high estimated number of informal workers in Tajikistan, the Government is asked to provide information in its next report on the efforts made to improve its capacity to assess the situation of and trends in employment, unemployment and underemployment, both in the formal and informal economy (Article 2).***

5. *Participation of the social partners in policy preparation and implementation.* ***The Committee would be grateful to receive information in the next report on the consultations held with representatives of the social partners and on the implementation of employment policies, and in particular with representatives of the rural sector and the informal economy on the matters covered by the Convention (Article 3).***

6. The Committee once again points out that the assistance of the Office is available to help the Government meet the reporting obligations and for the technical implementation of an active employment policy within the meaning of the Convention.

Thailand

Employment Service Convention, 1948 (No. 88) (ratification: 1969)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2005 observation, which read as follows:

The Committee notes the information in the Government's report received in November 2004, which responded to the comments made in the Committee's 1999 direct request. In February 2005, the Committee received from the National Congress of Thai Labour (NCTL) an observation to which the Government supplied its own comments.

1. *Measures to facilitate the movement of migrant workers and cooperation with private employment agencies.* The NCTL states that fraudulent practices are still used against jobseekers wishing to work overseas. Part of the problem is the lack of confidence jobseekers have in the services provided by the Government or in the fairness of government regulations. The NCTL

invites the Government to be more proactive in publicizing its public employment services in order to reach greater numbers of jobseekers wishing to work overseas. It also invites the Government to regularly review the measures taken. In this respect, the NCTL adds that the Committee on the Development of Employment and Jobseekers Protection (CDEJP) functions inefficiently, and many jobseekers are unaware of the CDEJP's services. The NCTL recommends providing the CDEJP with greater governmental support so that it can play a more active role.

2. In its reply, the Government enumerates the measures taken to address the deception against and exploitation of jobseekers by private recruitment agencies:

- *Defensive measures:* Private recruitment agencies are monitored to ensure compliance with national legislation, and violations result in severe punishment. The Department of Employment collaborates with the Immigration Bureau to monitor workers going overseas. At airport checkpoints, workers must report in person and show valid documents indicating authorization to work abroad. The Government is continually engaged in campaigns to provide jobseekers with information on the procedures required to work abroad legally.
- *Offensive measures:* The Government has established counter-fraudulence centres in employment offices at the provincial level to distribute information about overseas employment as well as to receive claims from jobseekers deceived by private recruiters. The sanctions taken against private recruitment agencies in violation of laws are also duly registered.

3. The Committee recalls that the public employment service shall take appropriate measures to “facilitate any movement of workers from one country to another which may have been approved by the governments concerned” (*Article 6, subparagraph (b)(iv) of the Convention* and Paragraph 27(2) of the Employment Service Recommendation, 1948 (No. 83), regarding international cooperation among employment services in the field of international migration). Furthermore, necessary measures shall be taken to secure effective cooperation between the public employment service and private employment agencies (*Article 11 of Convention No. 88*). *Also keeping in mind the Committee's comments on the application of the Employment Policy Convention, 1964 (No. 122), the Committee hopes that the Government will strengthen its public employment service in order to adequately protect migrant workers. It asks the Government to provide further details on the arrangements made to give full effect to Article 11 of Convention No. 88. The Committee also refers to the more recent provisions adopted by the International Labour Conference at its 85th Session (1997) concerning the prevention of abuse against migrant workers recruited by private employment agencies contained in Convention No. 181 and Recommendation No. 188.* It recalls that Convention No. 181 recognizes the role played by private employment agencies in the labour market and the need for cooperation between the public employment service and private employment agencies.

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 reply in detail to the present comments in 2007.]

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

The Committee notes the tripartite discussion that took place in June 2006 in the Conference Committee on the application of this Convention. The Government provided information to the Conference Committee on the most recent labour market trends, including the measures taken with a view to promoting employment, skills development and social protection. The Committee notes the concerns expressed with regard to the opportunities for women workers, workers with disabilities and workers in the rural sector and the informal economy to obtain and retain jobs and on the promotion of equal access to education, training and employment. It was emphasized that it is necessary to act within the framework of an active employment policy to promote the effective integration of migrant workers and to prevent cases of abuse or exploitation. The Conference Committee invited the Government to provide a detailed report on the matters raised during the discussion in the Conference Committee and by the Committee of Experts in its 2005 observation. The Committee of Experts notes that the Government's report, which was due to be provided by September 2006, has not been received. It is therefore bound to refer to the tripartite discussion that took place in June 2006 and repeat the main points raised in its previous comments.

1. *Employment policy and social protection.* In its 2002 direct request, the Committee encouraged the Government to follow an integrated approach to social protection and employment promotion and requested the Government to report on the implementation of unemployment benefits as a complement to its employment policies. The Committee notes with interest that the Government began collecting contributions for unemployment insurance on 1 January 2004 and issuing benefit payments on 1 July 2004. The Committee understands that the National Health Office has introduced a universal health-care scheme and that the Social Security Office is considering the extension of social security to the population that is not covered. *The Committee hopes that the Government will continue to report on the progress achieved in extending adequate social protection to the entire population and the steps taken to coordinate its employment policy with the unemployment benefit system.*

2. *Coordination of employment policy with poverty reduction.* The Committee once again requests the Government to provide information on the results achieved through the implementation of the measures adopted under the Ninth National Economic and Social Development Plan (2002–06), including information on the situation of socially vulnerable groups, such as workers in the rural sector and the informal economy. *In this regard, the Committee emphasizes the need for measures to ensure that employment, as a key element of poverty reduction, is at the heart of macroeconomic and social policies. It would appreciate detailed statistics on labour market trends and further information on the extent to which economic growth is leading to an improved labour market and a reduction in poverty levels. The Committee would also appreciate receiving information on how the measures taken to promote employment operate within the “framework of a coordinated economic and social policy” (Article 2, paragraph (a), of the Convention). Please indicate how concerns to improve the quantity and quality of employment are taken into account in economic policies, such as bilateral and multilateral trade agreements on employment.*

3. *Labour market and training policies.* The Committee noted previously that the Department of Employment, the Department of Skills Development and the Ministry of Education have implemented vocational training programmes for students, women in poor regions or from religious minority groups, persons with disabilities and other categories of unemployed persons. ***The Committee would appreciate being informed of the results of the various training programmes and the measures taken to ensure that the skills acquired through training programmes meet the demands of the labour market. It would appreciate information on how the various government departments are coordinating employment, labour market and training policies.*** The Committee refers, in this respect, to the provisions of the Human Resources Development Convention, 1975 (No. 142), and of the Human Resources Development Recommendation, 2004 (No. 195).

4. *Prevention of discrimination (Article 1, paragraph 2(c)).*

- *Women.* ***The Committee asks the Government to provide updated information on the efforts made to monitor the opportunities for women workers to obtain and retain jobs and to promote equal access to education, training and employment.***
- *Persons with disabilities.* ***The Committee would appreciate receiving indications on the progress achieved in integrating persons with disabilities into the open labour market.***
- *Migrant workers.* ***On this particular issue, the Committee refers to the tripartite discussion that took place in June 2006 and asks the Government to report in detail on the action taken within the framework of an active employment policy to prevent abuse in the recruitment of labour and the exploitation of migrant workers in Thailand (see Part X of the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)).***
- *Workers in the rural sector and the informal economy.* ***The Committee would appreciate receiving further information on the measures taken to increase employment opportunities and to improve working conditions for those in the rural sector and the informal economy.***

5. *Consultation of representatives of the persons affected.* Like the Conference Committee, the Committee of Experts urges the Government to give more weight to the viewpoints of the social partners and to provide assurances that consultations will be held in good faith. It is the Committee's view that governments and the representative organizations of employers and workers share responsibility for ensuring that representatives of marginalized sectors of the active population play a meaningful part in the formulation and implementation of policies of which they are the prime beneficiaries (paragraph 493 of the General Survey of 2004 on promoting employment). ***It accordingly requests the Government to provide information on tripartite consultations on employment policies, and to indicate the measures taken or envisaged to ensure that representatives of the rural sector and the informal economy also participate in such consultations. With respect to migrant workers, the Committee asks the Government to provide information on the involvement of employers' and workers' representatives, including representatives of migrant workers, in the development and implementation of measures relating to migration. It also encourages the Government to inform both employers and workers of government policies and labour standards protecting the rights of migrant workers.***

[The Government is asked to reply in detail to the present comments in 2007.]

Uganda

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1990)

1. *Implementation of a national policy on vocational rehabilitation and employment for persons with disabilities.* The Committee notes with interest the information provided in the Government's report received in June 2006 and, in particular, the passing of the Act of 2003 on the National Disability Council, containing regulations on its composition, duties and administration with a view to the promotion of the rights of persons with disabilities. The Committee notes that the National Disability Council was set up in August 2004. According to a 2002 census, 844,841 persons out of a total population of 24,442,084 are persons with disabilities. The Committee notes with interest the ILO study of March 2004 on the employment of persons with disabilities in Uganda. The study formed an integral part of the joint programme implemented by Ireland and the ILO entitled "Employment of people with disabilities: The impact of legislation (East Africa)", set up to help a certain number of African and Asian countries to improve their capacity to implement effective legislation in respect of the employment of disabled persons. In Uganda, this technical assistance project resulted in the adoption, by the Ministry of Labour, Social Development and Gender Equality, of the 2002–07 Strategic National Community Readjustment Plan. The aim of this Plan is to ensure the full integration of disabled persons into the community and guarantee them equal opportunities. The Committee recalls that, at the 95th Session of the Conference in June 2006, the Committee on the Application of Standards also welcomed the approach adopted by the joint programme implemented by Ireland and the ILO, since it sets out to promote the Convention, at the national and international levels, as an instrument prescribing an employment policy that provides adequate measures to integrate persons with disabilities into the open labour market. ***The Committee hopes that, in its next report, the Government will continue to provide information on steps taken by the National Disability Council to ensure that vocational rehabilitation measures are made available to all persons with disabilities and that different services are established to enable persons with***

disabilities to secure, retain and advance in employment, particularly in rural areas and remote communities (Articles 3, 7 and 8 of the Convention).

2. The Committee also notes with interest the enactment of the specific provisions relating to the employment of persons with disabilities on a non-discriminatory basis in the Employment Act, 2006, and the provisions for the publication of an annual report, including, in particular, statistics on employed persons with disabilities and aid provided by the employer. *It further notes the wide definition of the word “disability” in section 2 of the Act, and it requests the Government to report on its implementation in practice in order to ensure that the benefits of the special provisions relating to the disabled are reaped by those persons whose disabilities, whether physical or mental, are such that their “prospects of securing, retaining or advancing in suitable employment are substantially reduced” (Article 1 of the Convention). The Committee also invites the Government to ensure accessibility for the disabled to employment services, places of employment and to information on employment (Articles 3 and 6) and to continue providing information on the application of this Convention in practice (Part V of the report form).*

Zambia

Employment Policy Convention, 1964 (No. 122) (ratification: 1979)

1. *Implementation of an active employment policy.* In reply to the 2003 observation, the Committee notes that the Government indicates in its report received in May 2006 that a comprehensive National Employment and Labour Strategy has been drafted. It further notes that during the period reviewed there was a slight decrease in formal sector employment (from 416,804 jobs in 2003 to 416,228 jobs in 2004), which the Government attributes to the downsizing of public sector employment. With respect to poverty reduction, Zambia's Second PRSP Implementation Progress Report (July 2003 to June 2004) indicates that under the Peri-Urban Self-Help Programme, the Government planned a number of infrastructure projects applying labour-based techniques to build the capacity of vulnerable communities and provide jobs to counteract the country's high unemployment. It also notes that HIV/AIDS threatens the country's capacity-building efforts because it strikes the educated and uneducated, skilled and unskilled alike. The long periods of illness affecting workers have translated into severe losses in economic productivity. *The Committee trusts that the Government will supply a report containing detailed information on the principal policies pursued and measures taken with a view to ensuring that there is work for all who are available for and seeking work, with particular reference to policies and measures implemented under the national labour policy. Please also continue to provide information on how Zambia's Poverty Reduction Strategy contributes to the creation of productive employment in the context of a coordinated economic and social policy. Furthermore, the Committee asks the Government to specify how its policy takes into consideration the effects of HIV/AIDS on employment generation (Articles 1 and 2 of the Convention).*

2. The Committee recalls the Government's expectation that an ILO Project on Strengthening Labour Administration (SLASA) covering Botswana, Lesotho, Malawi and Zambia, may extend its assistance in the area of developing a comprehensive labour market information system. It adds that a draft national labour policy is being discussed with the social partners and will soon be submitted before Cabinet. *Please provide information in the next report on the development of a labour market information system and the adoption of a national labour policy.*

3. *Youth employment.* The Committee notes from the ILO Report of the Southern African Subregional Conference on Youth Employment (2005) that young people constitute 70 per cent of the 4.7 million person workforce in Zambia. Economic decline, an inadequate education system along with HIV/AIDS have all contributed to youth unemployment in the country. In response, the Government's National Youth Policy (2005) and various youth development programmes have been introduced to promote skills development and work opportunities for the young. *The Government is asked to provide further information on the implementation of these measures along with an assessment of their success in increasing employment opportunities for young workers.*

4. *Education and vocational training.* The Committee notes from the Government's report that, among the factors leading to low employment levels in Zambia, is the similarly low level of investment in education and training. It notes that, in response, the Government intends to introduce an education and training reform programme to improve access, quality and equity of basic education and training in the country. The Committee further notes that this programme will support skills training in the informal sector in response to the current labour market demands given that informal sector work is the source of livelihood for some 80 per cent of the working population. *The Government is asked to provide details in its next report on the development and implementation of this reform programme. Please also provide specific information on the measures taken under this programme to meet the training needs of particular categories of workers, such as women, young people, older workers and workers with disabilities.*

5. *Collection and use of employment data.* The Committee notes from the Government's report that the Central Statistics Office (CSO) usually conducts surveys on information pertaining to the nature and extent of unemployment and underemployment. It also notes that since 2005, the Department of Labour has worked closely with the CSO on these surveys. *The Committee asks the Government to specify how these data are used to determine and review employment policies (Article 2).*

6. *Participation of the social partners.* The Committee notes from the Government's report that the social partners are consulted through the Tripartite Consultative Council and were involved in the drafting of the National Employment

and Labour Market Policy. *The Committee asks the Government to provide more detailed information on the participation of the social partners in the ongoing decision-making and review of its national employment policy. Please also provide information on consultations with representatives of other sectors of the economically active population, such as those working in the rural sector and the informal economy (Article 3).*

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 2** (Guyana); **Convention No. 34** (Slovakia); **Convention No. 88** (Belize, Bosnia and Herzegovina, China: Macau Special Administrative Region, Dominican Republic, Ecuador, El Salvador, Finland, Ghana, Guinea-Bissau, Kazakhstan, San Marino, Serbia, Slovakia); **Convention No. 96** (Costa Rica, France); **Convention No. 122** (Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Chile, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Cyprus, Denmark: Greenland, Dominican Republic, Estonia, France: New Caledonia, Georgia, Honduras, Hungary, India, Kazakhstan, Republic of Korea, Madagascar, Mongolia, Netherlands: Netherlands Antilles, Panama, Papua New Guinea, Paraguay, Serbia, Uganda, Uzbekistan, Yemen); **Convention No. 159** (Argentina, Burkina Faso, Chile, Côte d'Ivoire, Dominican Republic, Guatemala, Italy, Jordan, Paraguay, Sao Tome and Principe, Serbia, Tajikistan, Ukraine, Yemen, Zambia); **Convention No. 181** (Albania, Czech Republic, Ethiopia, Hungary, Spain, Uruguay).

Vocational Guidance and Training

Algeria

Human Resources Development Convention, 1975 (No. 142) (ratification: 1984)

The Committee notes the detailed report and the relevant legislation provided in reply to its previous comments.

1. *Articles 1 and 5 of the Convention. Determination of action for the implementation of policies and programmes of vocational guidance and vocational training.* The Committee notes the reforms and priority action determined with a view to strengthening the national vocational training system and adapting it to employment trends and social and economic changes, particularly through the establishment of an environment of concerted action and intersectoral coordination. It notes that the implementation of priority actions is envisaged in the context of bi- and multinational cooperation. ***Recalling that, in accordance with Article 5, policies and programmes of vocational guidance and vocational training shall be formulated and implemented in cooperation with employers' and workers' organizations and, as appropriate, with other interested bodies, the Committee would be grateful if the Government would: (i) indicate the manner in which effect is given to this provision; (ii) provide the laws or regulations serving as a basis for the implementation of the action planned; and (iii) indicate the bodies or authorities responsible for coordinating these actions. The Government is also requested to keep the ILO informed of the implementation in practice of the policies and programmes initiated, their development and the results achieved in terms of employment, which is one of the major objectives of the policies and programmes covered by Article 1 of the Convention (paragraph 64 of the General Survey of 1991 on human resources development).***

2. *Articles 3 and 4. Coverage by the vocational training system of persons experiencing difficulties, women and persons with disabilities.* The Committee notes with interest the establishment, under the terms of Ministerial Orders Nos. 41 and 42 of 4 July 2000, of a system intended to provide training to young persons who have not achieved the required level to follow the initial training provided by vocational training and apprenticeship centres, with priority being accorded to those from underprivileged backgrounds, who have left the educational system or who have never attended school. The Committee notes with interest that nearly 40,000 girls have received training through this system. ***The Committee would be grateful if the Government would indicate the number of training places available provided by this system, and their geographical distribution.***

The Committee also notes with interest the implementation of training programmes for women, especially under Act No. 2000-01 amending and supplementing Act No. 81-07 of 27 June 1981 on apprenticeship, raising the final age for admission from 25 to 30 years for women wishing to have access to apprenticeship, and targeting unmarried women, unemployed widows or divorced women, women who are socially disadvantaged, those whose spouses are in long-term unemployment, former detainees and adult women who were formerly orphans in state care. Circular No. 1 of 4 May 2004, targeting housewives, has made it possible to provide evening courses free of charge so that they can acquire a qualification and skills which allow them to meet their needs and also contribute to the economic and social development of the country. The Committee further notes that agreements have been concluded with various active partners in the field of vocational training for the promotion of women, with technical and educational support being provided to these partners and training activities implemented jointly. ***The Committee would be grateful if the Government would provide copies of the agreements concluded with partners acting in the field of vocational training of women, indicate whether training for housewives is available throughout the territory and provide the relevant statistics where they are available.***

The Committee notes with interest that, in 2004, training activities were launched for persons with disabilities, including the maintenance and opening of special regional sections and the diversification of the training supply for the blind. ***The Committee would be grateful if the Government would indicate the geographical distribution of the training centres maintained and newly established and the number of places available in the courses provided by them. It also asks the Government to keep the ILO informed of any new measures which may be taken to reinforce or pursue the measures adopted for the training and vocational guidance of persons with disabilities.***

3. *Article 3. Development of vocational information and guidance systems.* The Committee notes with interest that the means of communication of the vocational training and education sector have been diversified through the establishment of a reception, information and guidance office, the publication of the guide to training courses and the yearbook of training establishments on the Ministry's web site, the development of local information through the dissemination of notices, brochures, prospectuses and CD-ROMs, and the publication of advertisements in national and regional newspapers. Youth centres and associations have also been called upon to contribute to the dissemination of the relevant information. ***The Committee would be grateful if the Government would indicate the manner in which information on education, training, professions and the employment market is kept up to date with a view to providing effective vocational guidance.***

4. *Part VI of the report form. Please provide extracts of reports, studies and inquiries on policies and programmes of vocational guidance and vocational training (for example, reports of the National Advisory Council on Vocational Training and of the wilaya commissions responsible for vocational training).*

Ecuador

Human Resources Development Convention, 1975 (No. 142) (ratification: 1977)

The Committee has taken note of the Government's report received in September 2005 and the detailed information it contains on the legislation and institutions in the field of vocational training and guidance. Referring to its previous comments, the Committee asks the Government to supply additional information on the application in practice of the Convention, in particular with regard to the following points.

1. *Article 1, paragraphs 1 to 5, of the Convention. Close link between vocational guidance and training measures and employment and equal opportunities.* The Government indicates that in recent years, the Ministry of Labour and Human Resources has signed various inter-institutional agreements concerning employment and training issues. The Committee notes that these agreements, which are regulated and coordinated by the National Council for Professional Training (CNCF), are attached to the Government's report. The Government further indicates that, for the purpose of extending occupational training and the employment service, it has developed an "Urgent Ecuador Action Employment Plan 2005–06", which gives extensive coverage to employment and occupational training programmes. The Government also mentions the first stage of a pilot programme to train workers in 3,000 micro-enterprises with the ILO technical assistance. ***The Committee would be grateful if the Government would provide updated information on the implementation and results achieved through the various positive measures undertaken in order to further develop comprehensive and coordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services. The Committee would also be grateful if the Government could provide in its next report information on measures taken or envisaged in order to encourage women to develop and use their capabilities for work in all branches of economic activity and at all levels of skill and responsibility.***

2. *Article 3. Vocational guidance policy.* The Government indicates that the training of vulnerable groups is one of its priorities and it has identified young persons as one of the groups in greater need of assistance. It has thus included a special project entitled "Youth for Youth for Work" within its Urgent Action Plan for Employment. ***While noting the information on the development of systems of vocational guidance, the Committee asks the Government to provide further information on the measures adopted to ensure that comprehensive and updated information and the broadest possible guidance are made available to all children, young persons and adults, including appropriate programmes for all disabled persons.***

Kenya

Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1979)

The Committee notes the Government's report on the application of the Convention for the period ending on 30 June 2006.

Formulation of a national policy. The Committee notes the Education Statistical Booklet 1999–2004, which covers among other things pre-work basic vocational and technical training. It observes, however, that the Government has still not formulated a national policy or adopted any specific legislation on the grant of paid leave to workers for educational purposes for a specified period during working hours, with adequate financial entitlements. The Government reports that the Task Force set up to revise the labour legislation, which was to examine amendments to meet the requests of the Committee of Experts, failed to reach agreement on the inclusion of paid educational leave in the proposed legislation. According to the Government, there is no legislation contrary to the Convention, paid educational leave being agreed according to operational and individual requirements in both public and private sectors. The public sector has Ministerial Training Committees which review training needs, and in the private sector paid educational leave is negotiated either between the union and management or individuals. The Government specifies that it is unable to provide any reports, studies, surveys or statistics showing the length of leave granted and the financial entitlements of workers who are granted educational leave. The Committee would remind the Government that the formulation and application of a policy designed to promote the granting of paid educational leave for the purpose of training at any level, *general, social and civic education and trade union education*, are obligations that derive from ratification of the Convention pursuant to *Article 2*. It points out in particular that *Article 2* facilitates application of the Convention by allowing methods to promote the granting of paid educational leave to be adapted to national conditions and practice and to be implemented in stages as necessary, as does *Article 9(b)*, under which special provisions are to be established for particular categories of workers and undertakings liable to have difficulty in fitting into general arrangements (*paragraphs (a) and (b)*). ***The Committee asks the Government to take measures rapidly to create the necessary conditions for formulating and applying a national policy to promote the granting of paid educational leave, in association with the social partners and***

institutions or bodies providing education and training, as prescribed by Article 6, to report on them promptly to the Office and to provide any relevant texts.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 140** (*Afghanistan, Bosnia and Herzegovina, Guinea, Ukraine*); **Convention No. 142** (*Afghanistan, Azerbaijan, Georgia, San Marino, Tajikistan*).

Employment Security

Cameroon

Termination of Employment Convention, 1982 (No. 158) (ratification: 1988)

1. The Committee notes the Government's report and the observations of the General Union of Cameroon Workers (UGTC) received in September 2006. The UGTC indicates that, under the pretext of complying with the conditions imposed by the international financial institutions, the country has embarked upon dismissals in companies that are to be liquidated or privatized. Over 5,000 workers have been dismissed in certain state enterprises. The UGTC indicates that the restructuring operations may continue into 2007. The Committee points out that compliance with the principles contained in the Convention may facilitate the development of socially responsible economic activity when taking decisions relating to collective dismissals. Terminations of employment for economic, technological, structural or similar reasons have to be in compliance with the provisions of *Articles 13 and 14 of the Convention*, particularly with regard to the consultation of workers' representatives and notification to the competent authority. ***The Committee requests the Government to indicate in its next report the manner in which compliance with the provisions of the Convention has been secured during the restructuring of enterprises referred to by the UGTC.***

2. *Determination of valid reasons for termination of employment.* The Committee notes the Government's statement that effect is given to *Article 4* by section 34(1) of the Labour Code, which is reproduced in collective agreements and provides that "a contract of employment for an indefinite period may always be terminated at the will of one of the parties. Such termination is subject to notice given by the party taking the initiative to end the contract and shall be notified in writing to the other party with an indication of the reason for termination". The Government indicates that the reasons considered to be valid grounds for termination are generally determined by the internal rules of each enterprise. The Committee recalls that Paragraph 1 of Recommendation No. 166 contemplates "workers' rules" as a method of implementation but, as the Committee observed in paragraph 30 of the 1995 General Survey on protection against unfair dismissal, it may prove difficult to rely on internal work rules to give effect to the provisions of the Convention when they only cover the enterprise to which they apply. ***The Committee therefore requests the Government to ensure, in a manner consistent with its national practice, that full effect is given to the obligation established by Article 4 of the Convention that the employment of any worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the enterprise, establishment or service. Please also provide copies of recent court decisions by which the tribunals have given effect to this important provision of the Convention.***

3. *Invalid reasons for termination set out in the Convention.* The Government indicates that the application of *Article 5* is ensured by sections 39(1) and 84(2) of the Labour Code, which the Committee had already noted in its previous comments. The Committee refers to its 2002 direct request relating to *Article 5(c) and (d)*, as well as the comments that it made in 2004 on the application of *Article 1* of Convention No. 111. ***It once again requests the Government to indicate the manner in which it is ensured in law and practice that the filing of a complaint or the participation in proceedings against an employer involving alleged violations of laws or regulations, or recourse to competent administrative authorities (Article 5(c)), as well as the race, colour, sex, marital status, family responsibilities, religion, political opinion, national extraction or social origin of the worker (Article 5(d)), do not constitute valid reasons for termination of employment. Please provide copies of relevant court decisions.***

4. *Defence procedure prior to termination of employment.* The Government indicates that collective agreements and internal rules give effect to the provisions of *Article 7*. The Committee refers to the observations made in 2001 by the Federation of Free Trade Unions of Cameroon (USCL) to the effect that observance of the procedures established in laws or regulations is not ensured, particularly in cases of dismissal of staff delegates and trade union representatives. ***The Committee once again requests the Government to indicate the manner in which the right to defence prior to termination of employment is ensured for all workers, in particular by providing copies of the relevant provisions of any collective agreement or internal rules that are available, and any recent judicial decision.***

5. *Time limits for the appeal procedure.* The Government indicates that the time limits available to workers to exercise their right of appeal against termination of employment can be inferred from section 74 of the Labour Code, which provides in subsection 1 that "legal action respecting the payment of wages is subject to a three-year prescription". The Committee notes that section 74 deals with legal action concerning payment of wages. ***It therefore requests the Government to indicate how section 74 of the Labour Code ensures the right to appeal against unfair dismissal within a reasonable period of time after termination, as required by Article 8, paragraph 3, of the Convention.***

6. *Definition of serious misconduct.* The Committee notes the Government's indication that the concept of "serious misconduct" is left to the appreciation of national jurisdictions. In paragraph 250 of its 1995 General Survey, the Committee already noted that, since this definition is fairly general, it is only by looking at the application in practice, and in particular case law, that an assessment can be made of the extent to which the provisions of the Convention are observed. ***It once again asks the Government to provide copies of relevant court decisions so as to enable it to examine the application of Articles 11 and 12, paragraph 3, of the Convention.***

7. *Application of the provisions of the Convention in practice.* The Committee notes the Government's statement that copies of court decisions relating to questions of principle concerning the application of the Convention will be forwarded subsequently. It draws the Government's attention to the importance of providing information regularly on the manner in which the Convention is applied in practice so as to enable the Committee to examine the application of its provisions, and particularly *Articles 4, 5, 7, 8, paragraph 3, 11 and 12, paragraph 3. The Committee trusts that the Government's next report will contain relevant and up to date information on the application of the Convention (Parts IV and V of the report form).*

[The Government is asked to reply in detail to the present comments in 2007.]

Gabon

Termination of Employment Convention, 1982 (No. 158) (ratification: 1988)

1. The Committee notes the Government's brief report received in September 2006, which contains no information in reply to its observation of 2005. The Committee once again refers to the comments it has been making for several years on the policy of the "gabonization" of jobs and compliance with the Convention in implementing it, particularly with *Article 4*. It draws the Government's attention to the importance of sending regularly up to date and relevant information on the application of the Convention so that the Committee can ascertain how each provision is applied. *The Committee hopes that the Government's next report will at last provide information on the application of the Convention in practice, including examples of recent court decisions, particularly regarding the definition of "real and serious" grounds for termination (Parts IV and V of the report form).*

2. *Termination on economic grounds authorized by the labour inspector.* The Committee notes that any individual or collective termination for economic reasons requires authorization from the labour inspector (section 56 of the Labour Code). *The Committee refers to its previous comments on the application of Article 8, paragraph 2, and Article 9, paragraph 3, and requests the Government to indicate whether workers can challenge the labour inspector's decision to authorize termination on economic grounds in accordance with Article 9, paragraph 3.*

3. *Time limits for the appeal procedure.* The Committee notes that, under section 159 of the Labour Code, pay claims are subject to a time limit of five years. *It requests the Government to indicate how, by applying section 159 of the Labour Code, it ensures the right to appeal against unfair dismissal within a reasonable period of time after termination, as required by Article 8, paragraph 3.*

[The Government is asked to reply in detail to the present comments in 2008.]

Portugal

Termination of Employment Convention, 1982 (No. 158) (ratification: 1995)

The Committee notes the Government's detailed report for the period ending May 2006, and particularly the information on the laws and regulations adopted in August 2003 and July 2006 with a view to giving effect to the provisions of the Convention. The report also includes the comments of the General Union of Workers (UGT) and the Portuguese Confederation of Tourism (CTP). The UGT summarizes the national provisions establishing protection against termination of employment without a valid reason and expresses concern that the frequent use of fixed-term contracts is contributing to precarity among workers. The Portuguese Confederation of Tourism observes that, in its view, the national provisions appear to be in conformity with the principles of the Convention, although the provisions of the Labour Code appear to be outmoded in a globalized economy in view of their lack of flexibility, which does not encourage the economic development of enterprises. *The Committee notes with interest that, in giving effect to the Convention, the new labour legislation has maintained a balance between flexibility and security for enterprises and workers. With reference to section 418 of the Labour Code respecting micro-enterprises, it requests the Government to indicate the manner in which compliance with the provisions of the Convention relating to the procedure for termination of employment is ensured in micro-enterprises. The Committee hopes that the Government's next report will contain updated information on the application of the Convention in practice, and particularly on the prevalence of fixed-term contracts (sections 128 et seq. of the Labour Code), and further examples of court decisions relating to matters of principle concerning the application of the Convention (Parts IV and V of the report form).*

Slovenia

Termination of Employment Convention, 1982 (No. 158) (ratification: 1992)

The Committee notes the detailed and comprehensive report provided by the Government, which was received in October 2006. The report includes references to the provisions of the Employment Act of 24 April 2002, which entered into force on 1 January 2003, and a complete assessment of the application of the Convention by the labour inspectorate, as well as several relevant court decisions. In relation to its previous comments, the Committee notes with interest that section 82 of the Employment Act, in conformity with *Article 9, paragraph 2, of the Convention*, requires the employer to

provide a valid reason for termination. *The Committee would appreciate continuing to receive information on the manner in which the Convention is applied in practice, including available data on the number of appeals against unjustified termination, the outcome of such appeals, the nature of the remedy awarded and the average time taken for an appeal to be decided. Please also provide information on the number of terminations of employment for economic or similar reasons and indicate any practical difficulties encountered in the implementation of the Convention (Part V of the report form).*

Uganda

Termination of Employment Convention, 1982 (No. 158) (ratification: 1990)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2004 observation, which read as follows:

1. With reference to the comments that it has been making for many years, the Committee regrets to note that the Government indicates once again in the report received in June 2004 that the draft Employment Bill which, according to the Government, should give effect to the Convention, has still not been adopted. Recalling that under the terms of *Article 1* the provisions of the Convention are required to be given effect by laws or regulations (in so far as they are not made effective by collective agreements, arbitration awards or court decisions, or in such other manner as may be consistent with national practice), the Committee observes that the reform of the labour law has benefited from continued ILO assistance, particularly in the context of project UGA/99/0003 financed by UNDP. In this context, the Committee considers that it is particularly regrettable that the draft Employment Bill has still not been adopted and that over 13 years after the entry into force of the Convention, the Government has not yet provided the slightest information on its application.

2. *The Committee trusts that the Government will be in a position in the very near future to report real progress in the adoption of the relevant legislation and that it will provide full particulars in its next report on the application of the provisions of the Convention in both law and practice.*

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

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 158** (*Democratic Republic of the Congo, Latvia, Lesotho, Malawi, Morocco, Papua New Guinea, Serbia, Spain, Sweden, Yemen, Zambia*).

Wages

Algeria

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1962)

The Committee notes that the Government's succinct report contains no reply to its previous comments. The Committee recalls that it has been drawing the Government's attention for some time past to the absence of specific legislation or regulations giving effect to the main requirements of the Convention, in particular the use of labour clauses in public procurement to ensure that all workers engaged in the execution of public contracts receive wages and enjoy conditions of labour which are not less favourable than the most favourable practised in the area and the sector concerned.

Regrettably, the Government appears not to have fully understood the scope and purpose of the Convention by taking the view that compliance is ensured simply because public contracts are covered by general labour legislation and their execution is controlled by the labour inspection services. As it has been pointed out on several occasions, the mere fact of the labour legislation being applicable to all workers does not release governments bound by this Convention from their obligation to take the necessary measures to ensure that public contracts contain the labour clauses specified in *Article 2 of the Convention*. In circumstances where the conditions of employment of workers are fixed not only by national legislation but also by collective agreements or arbitration awards, and where the provisions of the national legislation respecting wages, hours of work and other conditions of employment set out minimum standards which may be exceeded by collective agreements, the insertion of labour clauses can serve a very useful purpose in ensuring that the workers concerned enjoy wages and other labour conditions at least as good as the most favourable conditions applicable to workers performing similar work in the same area.

The Committee understands that new standard specifications for competitive bidding are now under preparation, including the general administrative clauses (CCAG) and the general technical clauses (CPS) referred to in section 9 of Presidential Decree No. 02-250 of 24 July 2002 on public procurement regulations. *The Committee hopes that the Government will take the necessary action to ensure that the new specifications for public tendering are fully consistent with the provisions of Article 2(1) (insertion of labour clauses), Article 2(3) (consultation with employers' and workers' organizations on the terms of the labour clauses), Article 2(4) (measures to inform tenderers of the terms of the clauses), Article 4 (posting of notices and maintenance of records) and Article 5 (sanctions for failure to observe the provisions of labour clauses) of the Convention.* To this end, the Committee transmits herewith a copy of an explanatory note established by the Office concerning the objectives of the Convention and the practical way in which legislative conformity may be ensured with its provisions. *The Committee asks the Government to provide information in its next report on progress made in this regard.*

Finally, the Committee would be grateful to the Government for supplying, in accordance with Article 6 of the Convention and Part V of the report form, up to date information on the application of the Convention in practice, including for instance specimen copies of forms of public contracts currently in use, available statistics on the number of contracts awarded and the number of workers covered by these contracts during the reporting period, extracts from official reports addressing labour-related questions in public procurement as well as information from the labour inspection services on the supervision and enforcement of relevant laws and regulations.

Angola

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1976)

Article 3, paragraph 2(2) and (3), of the Convention. Level of the minimum wage and participation of the social partners in the operation of minimum wage fixing machinery. The Committee notes the Government's report and the attached copy of Decree No. 40/00 of 10 October 2000 issuing the statutes of the National Council of Social Dialogue (CNCS). The Committee also notes the information to the effect that the guaranteed national minimum wage was readjusted by Decree No. 98/05 of 28 October 2005 and raised to 5,850 kwanzas (approximately US\$65 per month). In this regard, the Committee understands that in May 2006 the Council of Ministers decided to increase the national minimum wage by 10 per cent. *The Committee requests the Government to provide a copy of the Decree fixing the current minimum wage level and to keep it informed of any developments in this respect. The Committee also asks the Government to provide further information on the exact role of the CNCS in the minimum wage fixing machinery and on how it ensures that the social partners participate and are consulted in a useful and effective manner; or, in other words, that workers' and employers' representatives really have the opportunity to express their opinions and that these opinions are given full and fair consideration.*

Article 4. System of supervision and sanctions. Given that no response has been received in this respect, the Committee once again asks the Government to provide, in its next report, detailed information on the functioning of

the inspection system which ensures the observance of the national minimum wage. The Committee also requests the Government to refer to its 2005 comments regarding the Labour Inspection Convention, 1947 (No. 81).

Article 5 and Part V of the report form. The Committee notes the information contained in the 2005 annual report drafted by the technical group to review fluctuations in the national minimum wage, which was set up by the National Council of Social Dialogue. ***The Committee requests the Government to continue providing information on the application of the Convention in practice, in particular statistics on the number of workers covered by the minimum wage, extracts from inspection service reports indicating the infringements reported and the penalties imposed, as well as any other official documents, such as CNCS studies, concerning the national minimum wage.***

Bolivia

Protection of Wages Convention, 1949 (No. 95) (ratification: 1977)

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

The Committee recalls that it has been making comments since 1983 on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), and the present Convention regarding alleged abuses in the payment of wages to agricultural workers. It notes with regret that the Government confines itself in its report to indicating that there has been no follow-up on the matter raised in the Committee's previous observations and that investigations have not been carried out on the subject. The Government adds that, in the context of its policy, it is seeking, among other aims, to resolve the problems encountered by all salaried workers not covered by the General Labour Act.

In this respect, the Committee notes the study entitled *Enganche y Servidumbre por Deudas en Bolivia* ("The trap of debt bondage in Bolivia"), prepared in 2004 and published by the Office in January 2005, which reports practices resulting in tens of thousands of indigenous agricultural workers being in a situation of debt bondage, with some of them being subject to conditions of permanent or semi-permanent forced labour. According to this study, the methods used include systems of advances on wages, stores located in camps which charge excessive rates in relation to market prices, compulsory deductions from wages for savings schemes, payments in kind and the deferred payment of wages. These practices are found, in one form or another, in the regions of Santa Cruz and Tarija (sugar cane harvest), in the north of Amazonia (chestnut picking) and in the region of Chaco (work in ranches), with this latter region experiencing the worst cases of forced labour in the Andean region. The Committee also notes that the conclusions and recommendations of this study were validated at a tripartite seminar held in La Paz in August 2004. The recommendations of the study included the ratification of the Forced Labour Convention, 1930 (No. 29), and the formulation of a national plan of action to eradicate and combat forced labour in all its forms. ***Noting with interest that the Government ratified Convention No. 29 on 31 May 2005, the Committee draws the Government's attention to the fact that the practices referred to in the study raise problems relating to the application of Article 4 (payment in kind), Article 6 (freedom of the worker to dispose of his or her wages), Article 7 (works stores), Article 8 (deductions from wages) and Article 12 (regular payment of wages) of Convention No. 95. It therefore requests the Government to provide detailed information on the measures adopted for the formulation and implementation of a national plan of action to bring these practices to an end.***

The Committee is addressing other points, including the scope of application of the General Labour Act and its extension to agricultural workers, in a request addressed directly to the Government.

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

Minimum Wage Fixing Convention, 1970 (No. 131) (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:

Article 1, paragraphs 2 and 3, of the Convention. Further to its previous comments on the exclusion of certain categories of workers from the coverage of the minimum wage legislation, the Committee notes the Government's statement that by Act No. 1715 of 18 October 1996 on agrarian reform, agricultural wage workers have come within the scope of application of the General Labour Act and that a Supreme Decree, which is currently in the process of adoption, is expected to regulate agricultural wage work and guarantee the general application of the national minimum wage to those workers. The Committee recalls, however, that in some earlier reports the Government had stated that only sugar cane and cotton workers were not excluded from the minimum wage system and that efforts were being made to extend its application to rubber, forestry and chestnut workers. ***The Committee therefore requests the Government to clarify the situation in this regard, and to transmit a copy of the Decree on agricultural wage workers as soon as it is formally adopted.***

Article 3. The Committee notes that the minimum wage was last revised in 2003 by Supreme Decree No. 27048 and is presently fixed at 440 bolivianos. According to the information supplied by the Government, this amount is renegotiated every year and increases proportionately to the evolution of the consumer price index. The Government adds that the national minimum wage is used for the calculation of various pay supplements and social security benefits, for instance seniority bonus and maternity allowance, and therefore has an impact on the income of most workers. In this connection, the Committee reminds the Government that the primary function of the minimum wage system envisaged in the Convention is to serve as a measure of social protection and to overcome poverty by ensuring decent minimum levels of wages especially for the low-paid, unskilled workers. Therefore, minimum rates of pay that represent only a fraction of the real needs of workers and their families, whatever their subsidiary importance in calculating certain benefits may be, can hardly fit the concept and the rationale of a minimum wage as this arises from the Convention. ***The Committee requests the Government to indicate the measures it intends to take to ensure that the national minimum wage fulfils a meaningful role in social policy, which implies that it should not be allowed to fall below a socially acceptable "subsistence level" and that it should maintain its purchasing power in relation to a basic basket of essential consumer goods.***

Article 4, paragraph 2. The Committee has been requesting the Government for many years to provide tangible evidence of full consultations held with the social partners with respect to fixing or readjusting minimum wage rates, as required by the

provisions of the Convention. In its reply, the Government indicates that no consultations with the Bolivian Labour Federation (COB) were possible this year due to persistent claims of that organization linked to the participation of the President of the Republic in these consultations. However, negotiations were held with different organizations at the branch level resulting in wage increases of 3 per cent in several sectors. As regards discussions on minimum wages with employers' representatives, the Government states that it cannot enter into any such discussions with the Confederation of Private Employers of Bolivia (CEPB) since article 8 of the Statutes of this organization prevents it from negotiating matters related to wages. While taking due note of these indications, the Committee wishes to emphasize once again the fundamental character of the principle of full consultation of the social partners at all stages of the minimum wage fixing procedure. According to the letter and the spirit of the Convention, the process of consultation must precede any decision-making and must be effective, that is to say it must afford the social partners a genuine opportunity to express their views and have some influence on the decisions pertaining to the matters that are the subject of consultation. *While recalling that "consultation" should be kept distinct from "co-determination" or mere "information", the Committee considers that the Government is under the obligation to create and maintain conditions permitting the full consultation and direct participation of the most representative employers' and workers' organizations in all circumstances, and therefore urges the Government to take appropriate action to ensure that the requirement for meaningful consultations set forth in this Article of the Convention is effectively applied, preferably in a well-defined, commonly agreed and institutionalized form. It accordingly asks the Government to keep it informed of any developments concerning the establishment of the National Council on Labour Relations.*

Article 5 and Part V of the report form. The Committee notes that the Government intends to amend section 121 of the General Labour Act to provide for the periodic readjustment of the amount of fine to be imposed in the event of infringement of the minimum wage rates in force. *The Committee would be grateful to the Government for continuing to supply all available information on the application of the Convention in practice.*

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

Brazil

Protection of Wages Convention, 1949 (No. 95) (ratification: 1957)

The Committee notes the information provided in the Government's report and the attached documents. It notes in particular the indications concerning the definitive payment of the amounts due to the former employees of the Technical Assistance and Rural Development Enterprise (EMATER) of the State of Minas Gerais, as well as the information on the measures adopted to combat degrading work practices, and particularly debt bondage.

1. Further to the previous comments of the Seafarers' Union of the Port of Rio Grande (SINDIMAR), the Committee notes the Government's explanations according to which the maritime authorities are empowered to inspect the working and living conditions on board vessels and that the fact that a temporary registration certificate is issued by the maritime authorities does not imply inspection of labour relations, including the payment of wages. The Government adds that the labour inspectorate, which is competent to ascertain labour conditions, including those on board foreign vessels, may seek the immobilization of the vessel, but cannot penalize failure to pay wages on board vessels flying the Ukrainian flag. The Government further indicates that, in cases in which wage arrears are not resolved, the information may be communicated to the country of origin of the vessel and to the ILO. *The Committee requests the Government to provide additional information on any further inspections carried out by the labour inspection services on board the vessels in question, particularly with regard to the regular payment of wages, and the action taken as a result by the competent authorities.*

2. With regard to the comments made by the Union of Port Services Workers of Rio Grande (SINDIPORG) and the Union of Port Workers of Rio Grande Do Sul (UPERSUL), the Committee notes the Government's indications that workers' claims are included in the debts of the State of Rio Grande Do Sul, which are still under investigation in the context of court action, and that the latter State has not yet paid the wage arrears of its officials. *Recalling, as the Committee emphasized in paragraph 367 of its 2003 General Survey on the protection of wages, that the Government is bound not only to ensure that the requirements of the Convention are scrupulously applied in respect of workers whose wages are financed directly by the state budget, but also to ensure that it is applied by local authorities and private enterprise, it requests the Government to keep it informed of any developments relating to the definitive settlement of the wages of the officials of the State of Rio Grande Do Sul.*

The Committee is also addressing a request directly to the Government on other matters.

Burundi

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1963)

The Committee notes the information provided by the Government in its report, according to which public contracts do not contain any labour clauses in practice. The Government recognizes that this situation needs to be rectified and indicates that the Ministry of Finance is favourable to undertaking concrete action in this respect while the Ministry of Labour intends to address the question of the application of the Convention in the framework of the forthcoming examination of the new draft Code on Public Contracts.

The Committee feels obliged to recall, in this connection, that any implementing laws or regulations would need to apply the following core principles of the Convention: (i) insertion of labour clauses in all public contracts by virtue of which the contractor undertakes to ensure that all workers employed by him/her receive wages and enjoy conditions of labour which are not less favourable than the most favourable of those established by collective agreement or by laws and regulations for work of the same character in the same district; (ii) adequate coverage to ensure observance of the labour clauses even in the case of subcontracting; (iii) adequate publicity, for instance by advertising specifications, to ensure that persons tendering for public contracts are aware of the terms of labour clauses; (iv) adequate information for workers engaged in the execution of public contracts, especially through the posting of notices at the workplace, regarding the conditions of work applicable to them; and (v) adequate system of sanctions, such as the withholding of payments to the contractor, to ensure compliance with the terms of labour clauses.

The Committee hopes that the Government will take the necessary steps without further delay to ensure that the new legislation on public procurement is fully consistent with these basic requirements of the Convention and asks the Government to keep it informed of any progress made in this regard. It also recalls that the Government may avail itself of the technical assistance and expert advice of the Office should it so wish with a view to giving full effect to the provisions and objectives of the Convention in both law and practice.

[The Government is asked to report in detail in 2007.]

Cameroon

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1962)

The Committee has been commenting for more than 30 years on the need to adopt specific measures to ensure that labour clauses constitute an integral part of public contracts. The Committee notes the adoption of Decree No. 2004/275 of 24 September 2004 relating to the regulation of public contracts and regrets that the new public procurement legislation continues to be inconsistent with the basic requirements of the Convention.

The Committee notes that section 80 of the latest enactment, which provides that “tenderers shall undertake in their bids to comply with all laws and regulations and all clauses of collective agreements relating, among other matters, to wages, conditions of work, safety and health and welfare of the workers concerned”, merely reproduces the provisions of Decree No. 95/101 of 9 June 1995 and Decree No. 86/903 of 18 July 1986 that the Committee had previously considered to fall short of implementing the Convention. The Committee draws the Government’s attention to the fact that the Convention does not relate to some general eligibility criteria, or prequalification requirements, of individuals or enterprises bidding for public contracts, but requires the “most favourable employment conditions clause” to be expressly included in the actual contract that is finally signed by the public authority and the selected contractor.

The Committee attaches herewith a copy of an explanatory note prepared by the International Labour Office for the purpose of providing guidance to member States concerning the aims and purpose of this Convention. The note includes also a model text illustrating one of several ways in which legislative conformity with the Convention may be ensured. *While recalling that the Office can provide technical assistance and expert advice if the Government so wishes, the Committee asks the Government to take without further delay all the necessary measures in order to apply effectively the Convention in both law and practice.*

Moreover, the Committee notes the observations of the General Workers’ Union of Cameroon (UGTC), according to which, in most cases, contractors do not apply the wage scales provided for in the industry-wide collective agreements, while workers engaged in the execution of public contracts do not enjoy any social security protection. *The Committee requests the Government to transmit its reply to the UGTC’s comments so that it may examine these points at its next meeting.*

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

Central African Republic

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1964)

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

The Committee notes with regret that it has not been possible to make any significant progress, as the Government confines itself to noting the observations made by the Committee, while reiterating its commitment to establish the requirement in the new Labour Code for the inclusion of labour clauses in public contracts. The Committee is bound to remind the Government that it has been announcing its intention to give effect to the Committee’s suggestions for over 20 years without practical results. *It therefore repeats its request concerning the amendment of the two Decrees of 1961, respecting public contracts for the supply of goods and services, insofar as they are still in force.* It would be sufficient to amend these Decrees by introducing provisions similar to those of section 16(3) of Decree No. 61/136, determining the schedule of general administrative clauses applicable for the implementation of public works contracts, with references to the appropriate collective agreements. *The Committee also*

requests the Government to keep it informed of any development in relation to the formulation and adoption of the new Labour Code.

With a view to assisting the Government in its efforts to give effect to the Convention, the Committee is providing in annex a copy of an explanatory note prepared by the Office on the objectives and provisions of the Convention. This note includes, in particular, a model legislative text to give 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.

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

The Committee notes the information communicated by the Government in response to its previous observation and following the discussion that took place at the Committee on the Application of Standards of the International Labour Conference in June 2006. It notes, in particular, that the wage arrears in the public sector affect 23,000 officials, and that following strikes initiated by the Trade Union of Central African Workers (USTC), the Government has set up two tripartite committees, one in charge of surveying the amount of the wage arrears, and another in charge of studying the question of personnel promotion frozen since 1985. The Committee notes that the outcome of the work of the two committees will be communicated in due course and that, as regards the preparation of the new Labour Code, a review of the draft text has been undertaken by the General Directorate of Labour.

The Committee notes with regret that the information transmitted by the Government is very limited. The Government confines itself to indicating the number of public officials affected by the problems of the wage arrears, whereas before the Conference Committee it had indicated that the committee which was set up and which had nearly completed its work, was responsible for determining the *amount* of accumulated arrears and to formulate proposals on this matter. The Committee notes that no new measures have been taken since the last session of the Conference in order to resolve the problem of wage arrears in the public sector.

The Committee recalls once again, as the Committee on the Application of Standards underlined in June, that the payment of wages in full and on time is an important workers' right and an absolute prerequisite for healthy employment relations, economic progress and social welfare. It once more stresses the importance of this Convention that bears in a most tangible and elementary manner on the welfare of the workers and their families. *The Committee therefore requests the Government to take, without further delay, all necessary measures to assess the total amount of the wage debt in the public sector and to bring to an end the wage crisis which persists in the country.*

[The Government is asked to reply in detail to the present comments in 2007.]

Chad

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1960)

The Committee notes the information contained in the Government's report and the attached documentation.

Article 3 of the Convention. Further to its previous comments, the Committee notes with regret that the guaranteed interoccupational minimum wage (SMIG) and the guaranteed minimum agricultural wage (SMAG) have not been readjusted for over ten years and remain at the 1995 level, or 25,480 CFA per month. The Government recognizes that the current minimum wage rate is derisory and insufficient to provide a decent standard of living for workers and their families. It also reiterates that this situation is linked to the imposition of a structural adjustment programme by the international financial institutions. The Committee is bound to observe that a system of minimum wages serves no useful purpose as a measure of social protection designed to overcome poverty and to ensure the satisfaction of the workers' subsistence needs unless minimum wage rates are periodically reviewed in light of the socio-economic conditions prevailing in the country. The Committee considers that when minimum rates of pay are systematically left to lose most of their value so that they ultimately bear no relationship with the real needs of the workers, minimum wage fixing is in fact reduced to a mere formality devoid of any substance. *While noting that under paragraph 4 of the Protocol of Agreement signed on 23 November 2002 between the Government and the Union of Trade Unions of Chad (UST), negotiations should be pursued for the revision of the current SMIG rate, the Committee asks the Government to take the appropriate steps to ensure that the national minimum wage is periodically examined, and eventually revised, in full consultation with the social partners and in accordance with the economic and social realities of the country.*

Article 5 and Part V of the report form. The Committee notes that, according to the statistical information provided by the Government, as at 31 December 2005, the number of registered workers remunerated at the SMIG and SMAG rates stood at approximately 31,000. It also notes the Government's statement that data on inspection results and infringements observed are not available. *The Committee would appreciate if the Government would continue supplying general information on the practical application of the Convention. It also hopes that the Government, in response to the comments made by the Committee under the Labour Inspection Convention, 1947 (No. 81), will make an effort to collect and communicate information regarding the functioning of the labour inspection services, especially in matters related to the payment of minimum wage.*

China

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1930)

The Committee notes the observations made by the International Confederation of Free Trade Unions (ICFTU) concerning the application of the Convention. The ICFTU alleges that essentially due to poor enforcement and monitoring, the majority of workers, in particular migrant workers, fail to get the legal minimum wage. According to the ICFTU, factory managers often falsify time cards and payroll records to avoid paying the legal minimums while cases of non-payment and unlawful wage deductions are also too common, and tend to reduce to sub-minimum levels the income even of those who are nominally paid above the minimum wage rate. The ICFTU also indicates that the extremely high proportion of workers without formal contracts means that tens of millions of workers do not benefit from minimum wage regulations. It further observes that in the majority of cases workers are unaware of the minimum wage rates applicable to them, or confused by various piece rates or complicated calculations of hourly rates. As regards the role of workers' organizations, the ICFTU considers that the All-China Federation of Trade Unions (ACFTU) is not a genuine trade union and cannot negotiate properly and independently with private business and the Government. While recognizing recent improvements in the legal framework concerning the calculation and enforcement of minimum wages, the ICFTU deplores the insufficient monitoring of enterprises to ensure compliance, the limited means of legal redress available to workers and the state secrecy which prevents access to clear, accurate and transparent statistics. ***The Committee invites the Government to transmit its comments on the points raised in the communication of the ICFTU so that these may be examined in detail at its next session.***

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

Colombia

Protection of Wages Convention, 1949 (No. 95) (ratification: 1963)

The Committee recalls its previous comments further to the many observations made by the trade union organizations concerned regarding problems of wage arrears in certain public and private sector enterprises, and the protection of wage claims in the context of judicial bankruptcy proceedings.

1. The Committee notes the Government's detailed reply to the comments of SINTRACONSEGURIDAD, received on 21 March 2006, in which the Government refers exhaustively to the various court decisions which found that the Banco Cafetero, now the BANCAFE, is not responsible out of solidarity for the payment of the wages and social benefits of employees of the subcontracting company CONSEGURIDAD and that, consequently, the former workers, who have exhausted all the channels of appeal available, have to comply with court decisions which have the effect of *res judicata*. In this respect, the Committee takes due note of the Government's explanations and recalls that it has no powers to intervene in the manner in which the judicial authorities have adjudicated.

2. With regard to the comments of the Colombian Association of Airline Pilots (ACDAP) concerning the accumulation of wage arrears in the Intercontinentale aviation company, the Committee notes the Government's reply in which it indicates that, following many inspections and meetings which were unproductive, the inspection services imposed a fine of an amount of 10,740,000 pesos (around US\$4,900), equivalent to 30 times the minimum wage, on the enterprise. The Government adds that the sanction was notified to the persons concerned, in accordance with ruling No. 01 of 1984, so that they could avail themselves of the respective recourse procedures. The Committee notes the information that no appeals have been lodged and that the case is currently closed.

3. The Committee also notes the communication of the National Association of Health, Social Security and Allied Service Workers and Public Employees (ANTHOC), dated 9 March 2006, concerning the dispute between the employees of the public hospital San Juan de Dios and the management of the establishment concerning unpaid wages. In its reply, the Government announces that a loan contract has been concluded with the Beneficiencia de Cundinamarca which will cover the settlement of the wage debts of the former San Juan de Dios foundation, to which the public hospital and the maternal and children's institute belong. The Government adds that the funds will be paid when the Beneficiencia de Cundinamarca is capable of issuing a fiduciary order for direct payment to the beneficiaries. ***The Committee requests the Government to keep it informed of any progress achieved with a view to the definitive settlement of the dispute.***

4. With regard to the latest comments of the Union of Maritime and River Transport Workers (UNIMAR), dated 30 May 2006, which essentially go over the background to the dispute concerning the liquidation of the Merchant Navy Investment Company, SA, the Committee notes the Government's detailed information, particularly ruling No. 801 of 26 April 2006, through which the Territorial Directorate of Cundinamarca repealed the Order of 14 April 2003 calling for the establishment and accreditation of cautions and other guarantees and the definitive closure of the enterprise. The Committee also notes that appeals have been made against this administrative decision and that they are under investigation. ***It requests the Government to keep it informed of any progress achieved with a view to the definitive settlement of the dispute.***

Comoros

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1978)

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

The Committee recalls its previous comments in which it noted that despite the establishment of the Higher Council of Labour and Employment (CSTE), no minimum wage rates had been fixed in recent years and that the wage levels applied in practice no longer reflected the economic or social realities in the country. In its reply, the Government states that the CSTE has held its first meeting and has agreed on a draft text setting the guaranteed interoccupational minimum wage (SMIG) at 35,000 KMF. According to the Government's report, the draft text is currently before the competent authorities for signature.

The Committee takes due note of the above information. *It requests the Government to supply in its next report additional information on the first meeting of the CSTE, including full particulars on the participation, the views expressed by the social partners, the criteria taken into account in fixing the SMIG level, the coverage of the new minimum wage rate as well as any consideration given to the problem of the periodic review or readjustment of the SMIG. The Committee hopes that the decree regarding the determination of the guaranteed interoccupational minimum wage will take effect very shortly and requests the Government to transmit a copy of that text once it has been formally adopted. In addition the Committee asks the Government in its next and subsequent reports to provide information on the practical application of the Convention as required by Article 5 of the Convention and Part V of the report form.*

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

Protection of Wages Convention, 1949 (No. 95) (ratification: 1978)

The Committee recalls its previous observations regarding the persistent problems of deferred payment of wages, especially in the public sector, and the comments made in this connection by the Federation of Autonomous Comorian Workers' Organization (USATC). The Committee has been noting for some time the Government's reassurances that a consensus solution would be found for the settlement of wage arrears within the framework of the Higher Council for Labour and Employment (CSTE). To permit a proper assessment of the situation, the Committee has requested the Government to supply detailed information on the nature and extent of the problem, the practical measures taken so far and any results achieved.

In its last report, the Government merely indicates that its efforts to ensure the regular payment of wages are considerably hindered by political and economic constraints. The Government limits itself to reiterating its wish for a prompt resolution of the problem without, however, providing any specific information on the evolution of the situation, the measures taken or envisaged or any relevant proposals that may have been made by the CSTE. While fully appreciating that Comoros has been experiencing serious economic and political difficulties in the past few years, the Committee considers that the Government should have taken the necessary steps to closely monitor the situation with a view to formulating a time-bound plan for the elimination of the wage debt.

The Committee takes this opportunity to refer to paragraphs 356–374 of its 2003 General Survey on the protection of wages in which it emphasized that breaking the vicious circle of non-payment or delayed payment of wages comprises three main elements: (i) efficient control; (ii) appropriate sanctions; and (iii) fair compensation for the loss incurred. It also stressed that the delayed payment of wages or the accumulation of wage arrears clearly contravenes the letter and the spirit of the Convention and probably makes the application of most of its other provisions simply meaningless (paragraph 355).

The Committee therefore urges the Government to intensify its efforts to put an end to practices which deprive workers of the fruits of their labour and inexorably affect the national economy in its entirety. The Committee asks the Government to provide for examination at its next session full particulars on the latest developments in relation to wage arrears including, for instance, the approximate number of workers affected, the branches of economic activity mostly concerned, the average length of delay in the payment of wages, the overall amount of outstanding wage arrears and any negotiated time schedule for the payment of the sums remaining due.

Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) (ratification: 1978)

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

The Committee notes the Government's statement that the system of remuneration of agricultural workers needs to be reviewed to take into account the evolving social conditions. It further notes the references to UNDP- and EU-financed projects on micro and small enterprise development and the promotion of income-generating activities but is inclined to consider that such information is hardly relevant to the nature and form or the method of operation of the minimum wage fixing machinery in the agricultural sector.

While noting the Government's reference to past WFP-assisted activities whereby food supplies were provided in exchange of work, the Committee asks the Government to clarify in its next report whether any food-for-work activities are currently pursued, and under which conditions, and also to communicate full particulars on the application in law and practice of section 98 of the Labour Code which makes provision for the partial payment of wages in the form of food and

lodging. The Committee would also appreciate receiving information on the practical application of the Convention called for under Article 5 of the Convention and Part V of the report form.

The Committee refers also to the comments made under Convention No. 26.

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

Congo

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

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

With regard to the accumulated wage arrears owing to state employees, the Committee notes from the Government's report that the wage debt is estimated at 187.6 billion CFA which corresponds to the wage bill of 23 months. The Government states that in accordance with the Protocol of Agreement of 9 August 2003, the settlement of outstanding payments should commence in the fourth quarter of 2004. The Government adds that since 2000 all steps have been taken to prevent the further deterioration of the situation and that currently state employees receive their salaries regularly. *While noting the extent and seriousness of the ongoing wage crisis, the Committee requests the Government to transmit a copy of the above referenced Protocol of Agreement and to supply in its next report detailed information on the number of workers affected, the amount of arrears settled according to the terms of that Protocol and the time schedule for the repayment of the sums remaining due. The Committee urges the Government to accelerate its efforts to put an end to the phenomenon of delayed payment or non-payment of wages* and wishes to refer in this connection to paragraph 355 of its 2003 General Survey on the protection of wages in which it pointed out that the quintessence of wage protection is the assurance of a periodic payment allowing the worker to organize his everyday life with a reasonable degree of certainty and security whereas the delayed payment of wages or the accumulation of wage debts clearly contravene the letter and the spirit of the Convention and render the application of most of its other provisions simply meaningless.

With respect to the payment of the sums due to the former workers of the Ogooué Mining Company (COMILOG) to which the Committee has been drawing attention for several years, the Committee notes the Government's indication that the question has been discussed with the Government of Gabon at Libreville in July 2003. More concretely, the Government refers to a Protocol of Agreement signed on 19 July 2003 according to which COMILOG accepted to pay a lump sum of 1.2 billion CFA in final settlement of all workers' claims and ceded to the Government of the Republic of the Congo the proprietary rights to all its movable and immovable assets in the country. The Government further states that the reimbursement of the amounts due to the former workers of COMILOG can thus be effected once the practical arrangements for such payment have been settled. The Committee notes the positive developments with regard to the recovery by the former workers of COMILOG of all the amounts due to them some ten years after the matter was first brought to the knowledge of the International Labour Office. In this regard, the Committee wishes to reiterate, as it observed in paragraph 398 of the abovementioned General Survey, that the principle of the regular payment of wages, set out in *Article 12 of the Convention*, finds its full expression not only in the periodicity of wage payments, as may be regulated by national laws and regulations or collective agreements, but also in the complementary obligation to settle swiftly and in full all outstanding payments upon the termination of the contract of employment. *The Committee therefore asks the Government to speed up and closely monitor the process of settling the outstanding payments to the workers concerned and to supply in its next report full particulars on the progress made in this regard. The Committee would also appreciate receiving a copy of the Protocol of Agreement of 19 July 2003.*

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

Costa Rica

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1960)

The Committee notes the Government's indication in its report that it wishes to be provided with further explanations on the reasons why Executive Directive No. 34 of 8 February 2002 is contrary to the Convention.

The Committee observes that, under the terms of *Article 2 of the Convention*, the public contracts to which the Convention applies shall include clauses ensuring to the workers concerned wages, hours of work and other conditions of labour which are not less favourable than the *most favourable* conditions established in accordance with one of the three formulae envisaged by the Convention, that is by collective agreement, by arbitration award or by national laws or regulations. The mere fact that the labour and social security legislation is applicable to workers engaged in the context of public contracts is not sufficient to give effect to the Convention. Accordingly, as the Committee already emphasized in its previous comment, Executive Directive No. 34 of 8 February 2002, the first paragraph of which is confined to requiring the inclusion of a clause establishing the obligation of the contracting enterprises to comply strictly with labour and social security obligations but does not provide that wages, etc. must be not less favourable than the most favourable conditions established in the three specified manners, is not in conformity with *Article 2* of the Convention.

The inclusion of the clauses envisaged by the Convention ensures the protection of workers in cases in which the legislation only establishes minimum terms and conditions of employment but which minimum may be exceeded by general or sectoral collective agreements. Indeed, the fundamental objective of the Convention is to prevent social dumping resulting from the intense competition prevailing in the field of public tenders.

In its report, the Government also requests technical assistance for the formulation of provisions that are in accordance with the Convention. In this respect, the Committee recalls that the Government has already adopted a text on this subject, namely Decree No. 11430-TSS of 30 April 1980, following a direct contacts mission undertaken by a representative of the ILO Director-General. This Decree, which refers explicitly to the Convention and the adoption of which was noted with satisfaction by the Committee in an observation in 1981, provides that clauses should be included in public contracts explicitly requiring compliance by the tenderer with the legal provisions *or those contained in collective agreements* relating to wages, hours of work, occupational safety and health and, more generally, terms and conditions of employment which are not less favourable than those envisaged for work of the same nature performed in the same sector and the same geographical area. Following the adoption of this Decree, the Committee requested the Government, in a direct request in 1981, to indicate the manner in which the above terms and conditions of employment had been determined. In its report in 1982, the Government announced the establishment of a committee responsible for formulating the terms of labour clauses in collaboration with the employers' and workers' organizations concerned. However, since then, the Government has provided no further information on this subject and the Committee has therefore been bound to reiterate its request for information on numerous occasions.

The Committee therefore once again requests the Government to provide information on the labour clauses included in public contracts under the terms of Decree No. 11430-TSS of 30 April 1980, and to provide copies of public contracts containing such clauses. The Government is also requested to indicate whether the terms of these clauses were formulated after consultation of the employers' and workers' organizations concerned.

The Committee observes that the Government may once again avail itself of the assistance of the Office for appropriate technical assistance.

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

Articles 3 and 4 of the Convention. Payment of wages in legal tender and value attributed to allowances in kind. Further to its previous comments, the Committee notes with interest the Government's indication that, after consulting the competent authorities and analysing the draft amendment to sections 165 and 166 of the Labour Code, the Government acknowledges that the amendment of section 165(3) makes no change to current practice, which has been the subject of the Committee's comments for several years. The Committee also notes that the Government has formally requested technical assistance from the Office to harmonize national law and practice with the recommendations of the Committee concerning the application of *Articles 3, paragraph 1, and 4, paragraph 2, of the Convention*. The Committee understands that in October 2006, the Office undertook a technical assistance mission, particularly in relation to freedom of association, during which points relating to the application of Convention No. 95 were addressed. ***The Committee requests the Government to keep it informed of any developments in this field.***

Articles 8 and 12, paragraph 1. Deductions from wages and the regular payment of wages. The Committee notes the Government's indications that the inspectors of the National Directorate of Inspection of the Ministry of Labour act at their own initiative or that of third parties when enforcing legal provisions relating to the protection of wages and in any other field, irrespective of the activities of the workers concerned. It notes that, with regard to the period covered by the report, the Directorate of Inspection took action following complaints relating to deductions from wages and other irregularities. ***The Committee once again requests the Government to provide statistical data on the number of infringements reported in the field of the protection of wages and the sanctions and other measures adopted to resolve this situation.***

Cyprus

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

The Committee has been following for a number of years the Government's efforts to draft and adopt new legislation on the protection of wages with a view to ensuring full legislative conformity with the Convention. In its last report, the Government indicates that the Law Office of the Republic has completed the legal vetting of a new draft law, which was originally prepared in May 2003 by a Tripartite Technical Committee of the Labour Advisory Board, and that the finalized text would now be submitted to the Council of Ministers for approval. ***While noting the Government's renewed assurances that all the requirements of the Convention have been duly taken into account, the Committee requests the Government to transmit a copy of the new legislation as soon as it is enacted.***

In addition, the Committee notes with interest the information provided by the Government on the financing, administration and payment procedure of the Insolvency Fund which was set up under Act No. 25(I) of 2001 concerning the protection of employees' rights in the event of the employer's insolvency. The Insolvency Fund is administered by a Board with a tripartite composition consisting of members of the Social Insurance Council. It is financed each month with a transfer of 16.6 per cent of the contributions paid by employers to the Redundancy Fund and covers service-related claims of all employees, including trainees, on condition that they have been continuously employed by the insolvent employer for not less than 26 weeks prior to the insolvency. Beneficiaries are entitled to payment of outstanding wages for the last 13 weeks of employment up to a maximum weekly wage not exceeding four times the amount of the basic insurable earnings which is determined each year under the Social Insurance Law (maximum amount set at £329,60 for

2006). An application must be submitted within three months from the date of the insolvency and payments are made by cheque to be cashed within six months from the date of issue. The Committee avails itself of this opportunity to draw once again the Government's attention to the provisions of the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173) which was designed as a modern and flexible instrument offering a wide range of options to ratifying member States. *Noting the Government's indication that the ratification of Convention No. 173 is currently under consideration by the Social Insurance Services, the Committee asks the Government to keep the Office informed of any decision taken in this regard.*

Democratic Republic of the Congo

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1960)

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

The Committee notes the Government's indication that it has made efforts to harmonize its legislation with the provisions of the Convention by establishing a follow-up committee for the agreements ratified by the Ministry of Human Rights. The Committee notes with regret that, despite the observations that it has been making on this matter since 1991, legislation has still not been adopted to give full effect to the Convention.

The Committee recalls in this respect that the essential purpose of the Convention is to ensure that, through the insertion of appropriate labour clauses in public contracts, the workers employed by a contractor and paid indirectly out of public funds enjoy wages and conditions of labour which are at least as satisfactory as the wages and conditions of labour normally established for the type of work concerned, whether they are established by collective agreement or otherwise. Such protection is deemed to be necessary because this category of workers may not be covered by collective agreements and other measures regulating wages, and is often more exposed than others because of the competition between firms tendering for public contracts. Furthermore, the Committee deems it important to emphasize that the protection provided through labour clauses in public contracts cannot normally be ensured through the application of the general labour legislation only. This is due first of all to the fact that there are many countries in which the minimum standards fixed by law are improved upon by means of collective bargaining or otherwise. Thus, even where fairly extensive labour legislation exists and is properly applied, the inclusion of labour clauses in public contracts can serve a very useful purpose in ensuring fair wages and conditions of labour for the workers concerned. Secondly, it is due to the fact that the provision of penalties, such as the withholding of contracts, as envisaged in the Convention, makes it possible to impose sanctions in case of violations of the labour clauses in the public contracts which may be more directly effective than those applicable for infringements of the general labour legislation.

The Committee therefore urges the Government to take all the necessary measures to bring the national legislation into conformity with the provisions of the Convention and reminds it of the possibility of seeking the technical assistance of the International Labour Office for this purpose.

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

Djibouti

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1978)

The Committee notes the discussion that took place in the Committee on the Application of Standards at the 95th Session of the International Labour Conference (June 2006). It notes, in particular, the Government's explanations regarding the reasons that led to the abolition of the system of guaranteed interoccupational minimum wage (SMIG). It also notes that the new Labour Code (Act No. 133/AN/05/5ème L) promulgated in 2006 contains no reference to a statutory minimum wage and provides instead that wages are to be fixed through collective, enterprise or individual agreements.

The Committee recalls that in its conclusions the Conference Committee expressed concern that by dismantling the SMIG, the Government might deprive large numbers of workers who might not be covered by collective agreements from any protection with regard to minimum acceptable wage levels. Moreover, the Conference Committee requested the Government to take the necessary steps to ensure that minimum wage rates determined by means of collective agreements were legally binding and could not be lowered, and that their non-observance was subject to sanctions. The Conference Committee accordingly asked the Government to supply detailed information to the Committee of Experts concerning the sectors or branches of economic activity and the different categories of workers covered by collective agreements, as well as the approximate number of workers whose remuneration is not regulated by means of collective agreement. *The Committee regrets that no reply has so far been received, and hopes that the Government will make every effort to collect and transmit all requested information very shortly.*

The Committee understands that the Office has been in contact with the Government with a view to planning a technical assistance mission to follow up on the conclusions of the Conference Committee.

[The Government is asked to reply in detail to the present comments in 2007.]

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1978)

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

The Committee notes that the Government's brief statements do not contain a reply to its previous comments. It is therefore bound to recall its previous observations concerning the fact that the Government has still not proceeded to the adoption of legislation giving effect to the Convention. The Committee regrets that, despite its repeated comments, no real progress has been achieved for over 20 years in relation to the inclusion of labour clauses in public contracts. In its latest report, the Government states that it is planning to examine the necessary measures to give effect to the Convention in the overall context of the forthcoming revision of labour laws and regulations which it hopes to undertake with the Office's assistance as soon as the conditions have been fulfilled for the organization of a national tripartite consultation.

While recalling that the Government's report in 2000 contained a statement couched in identical terms, the Committee requests the Government to take the necessary measures without further ado to bring national law and practice into conformity with the provisions and objectives of the Convention.

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

Protection of Wages Convention, 1949 (No. 95) (ratification: 1978)

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

Article 8, paragraph 1, of the Convention. The Committee has been requesting the Government for the last ten years to clarify the meaning of section 107 of the Labour Code under which deductions may be made for deposits (*consignations*) prescribed by individual contracts of employment. In view of the fact that the Convention permits deductions from wages only under the conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitral awards, the above provision would need to be revised and therefore the Committee ventures to suggest that the words "and the individual labour contract" (*et les contrats individuels du travail*) should be deleted while the expression "compulsory levies" (*prélèvements obligatoires*) should be defined by reference to specific provisions of the Labour Code authorizing such levies. *The Committee hopes that the Government will take the necessary steps at the first suitable opportunity so as to bring the national legislation into conformity with this Article of the Convention on which it has been commenting for some years.*

Article 12, paragraph 1, of the Convention and Part V of the report form. The Committee recalls its previous observations in which it requested the Government to provide concrete information on the nature and scale of the persistent problem of wage arrears in the public sector (e.g. number of workers affected, amount of accumulated wage debt, length of delay in payment, branches of economic activity concerned) and any measures taken to improve the current situation. The Committee regrets the absence of any response from the Government on this point. It notes with concern that, according to certain sources the wage arrears to teachers, security forces and civil servants vary at present from three to nine months' pay, while recent World Bank figures indicate that the total amount of arrears in the public service (i.e. unpaid wages, unpaid contributions to pension funds and debts to private suppliers) represents more than 23 per cent of the GDP. *The Committee refers in this connection to paragraphs 23, 360 and 411 to 412 of the General Survey of 2003 on the protection of wages in which attention was drawn to the ongoing wage crises in several African countries and invites the Government to send its observations on the issues raised in the present comments.*

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

Ecuador

Protection of Wages Convention, 1949 (No. 95) (ratification: 1954)

The Committee notes the observations of the National Union of Workers of the telephone services body of the Ecuadorian Telecommunications Institute (IETEL) – "17 de mayo" – received on 27 September 2005. The union alleges that more than 5,000 employees of the communications companies EMETEL SA, ANDINATEL SA and PACIFICTEL SA have not been paid for overtime worked on weekly rest days and other holidays between 1 January 1989 and 31 August 2005 and demands the payment of 15 per cent of the amount corresponding to some 6,000 hours of overtime worked (approximately US\$88 million). The union also refers to the views of the sectoral committees of telecommunications technicians, according to which a telephone operator's working day should not exceed four hours, for reasons relating to workers' health.

In its reply, the Government indicated that the monitoring of hours of work falls within the competence of the regional labour directorate, through the Labour Inspectorate, and that no complaint lodged by the "17 de mayo" union with regard to the implementation of the wage policy is currently under investigation.

While recalling that the notion of wages, as defined in Article 1 of the Convention, means any remuneration for work done or services rendered and therefore includes overtime, the Committee requires more detailed and specific information – particularly concerning the changes made to the statute of the national telecommunications body between 1992 and 1997 – both on the nature and legal basis of the claims put forward by the union, and also on how the Government deals with such claims.

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1970)

The Committee notes the information provided by the Government in response to its previous observation.

With regard to the statistical information contained in the technical wage unit report attached to the Government's report, the Committee understands that the current minimum wage stands at approximately US\$160 per month. ***The Committee once again asks the Government to communicate a copy of the legal text establishing this rate and to provide detailed information on the consultations held within the National Wage Council (CONADES) which resulted in the most recent readjustment of the rate. The Committee would also like detailed information on the ability of such a rate to offer workers and their families a decent standard of living.*** The Committee notes that, according to various sources of information, the minimum wage rate is well below the poverty threshold and represents only a third of the income judged necessary to satisfy the essential needs of workers.

The Committee would like to take this opportunity to remind the Government that the Convention's main objective is to guarantee workers a minimum wage allowing them a decent standard of living and that this objective can be truly met only if minimum wage rates are re-examined periodically, in accordance with *Article 3 and Article 4, paragraph 1, of the Convention*, so as to take into reasonable account the evolution of socio-economic realities. In cases where the minimum wage covers only a slim percentage of workers' needs, the wage-fixing system is reduced to a mere formality and is rendered useless in terms of both combating poverty and ensuring social protection through acceptable minimum wage rates. ***The Committee therefore asks the Government to take the necessary measures to guarantee the application of minimum wages that are sufficient to enable workers to satisfy their essential needs and those of their families.***

With regard to the payment of remuneration below the minimum wage rate to persons covered by apprenticeship contracts, the Committee recalls its previous comments in which it requested information on measures taken to ensure that apprentices in the industrial sector who are paid less than the minimum wage receive vocational training in the workplace. In its last report, the Government spoke of a bill approved in February 2006, the purpose of which is to amend section 168 of the Labour Code by widening the scope and increasing the duration of apprenticeship contracts (making it possible for workers in the handicrafts sector to be hired as apprentices for a maximum period of two years). In its amended form, section 168 also provides that the remuneration of an apprentice will be no less than 80 per cent of the salary normally paid for the same type of work. While noting the information on the bill in question – a copy of which is requested once it has been formally adopted – the Committee still considers concrete measures to be necessary in order to prevent apprenticeship contracts from being misused to evade the minimum wage rates in force. Such misuse would be in violation of the principle enshrined in *Article 2, paragraph 1, of the Convention*, according to which, once fixed, minimum wages shall have the force of law and shall not be subject to abatement. ***The Committee therefore asks the Government, once again, to specify how it ensures that persons covered by apprenticeship contracts, under section 168 of the Labour Code, really receive vocational training in the workplace, which would justify remuneration below the minimum wage generally applied.***

Finally, the Committee would be grateful if the Government would continue providing, in accordance with Article 5 of the Convention and Part V of the report form, detailed information on the application of the Convention in practice, including, for instance, statistics on the results of inspections carried out and extracts of reports or official studies concerning the functioning of the minimum wage system, such as the annual activity reports of CONADES, etc.

Egypt

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1960)

The Committee regrets the Government's continued failure to give effect to the Convention and to effectively apply it in practice. More than 45 years after ratification, the Government has still to adopt implementing legislation providing for the insertion of labour clauses in public contracts. Despite the Government's statement that it has replied to all queries raised in previous comments, the Committee is obliged once again to observe that the Labour Code cannot automatically guarantee to the workers employed for the execution of public contracts labour conditions which are not less favourable than whichever is the most favourable of the three alternatives provided for in the Convention, i.e. collective negotiation, arbitration or legislation. The general labour legislation prescribes minimum standards, such as wage levels, and does not necessarily reflect the actual working conditions of workers whereas the Convention requires workers engaged in the execution of public contracts to be paid the wage that is generally paid in practice rather than the minimum wage provided for in the legislation.

With a view to assisting the Government in its effort to better understand the aims of the Convention and adapt its national legislation accordingly, the Committee attaches herewith a copy of an Explanatory Note prepared by the International Labour Office to this effect. The Note includes also a model text illustrating one of several ways in which legislative conformity with the Convention may be ensured. The Committee draws the Government's attention in this connection to the fact that the Convention does not necessarily call for the enactment of specific legislation, but it can also be applied by means of administrative instructions or circulars. ***The Committee asks the Government to take without***

further delay all the necessary measures in order to apply effectively the Convention in both law and practice. Finally, the Committee notes the Government's request for technical assistance with a view to obtaining detailed explanations concerning the application of the Convention. The Committee trusts that the Office will respond favourably to this request and hopes that the Government will make good use of the Office's advisory services so as to meet at last the requirements of the Convention.

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

With reference to the information contained in the Government's report, in particular, the adoption of the new Labour Code (Act No. 12 of 2003) and its implementing decrees, the Committee wishes to raise the following points.

Article 4 of the Convention. The Committee has been commenting for a number of years on the need to regulate in greater detail the conditions under which the partial payment of the wage in kind may be authorized. The Committee notes with regret that the Labour Code of 2003 contains no new provisions to ensure that the goods and products which may be offered in lieu of money are appropriate for the personal use and benefit of the worker and his/her family and that they are valued fairly. In addition, the Committee notes that, under section 32(D) of the new Labour Code, the method of payment of the wage, including any allowances in kind, is negotiated and agreed upon between the employer and the worker, whereas the Convention specifically requires the partial payment of wages in kind to be regulated only by national laws or regulation, collective agreements or arbitration awards, and not individual agreement. The Committee draws the Government's attention to paragraphs 104–160 of its 2003 General Survey on the protection of wages, which offer guidance concerning possible ways in which legislative conformity with this Article of the Convention may be ensured. ***The Committee hopes that the Government will take appropriate action without further delay in this respect.***

Article 6. The Committee notes that section 42 of the new Labour Code, which essentially reproduces section 39 of the old Labour Code of 1981, prohibits employers from obliging the worker to buy food, goods, or services from specific stores or buy goods produced or services provided by an employer. In this connection, the Committee wishes to refer to paragraph 210 of its 2003 General Survey on the protection of wages, in which it considered that nothing short of an explicit legislative provision setting forth a general prohibition upon employers from limiting the freedom of workers to dispose of their wages in any form and manner, directly or indirectly, and not simply in respect of the use of company stores, can be regarded as giving full effect to the requirements of the Convention.

The Committee requests the Government to indicate any measures taken or envisaged to give full effect to the requirements of the Convention in this regard.

France

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1951)

The Committee notes with regret that the Government's report has not been received. It further notes that the law respecting public contracts has been the subject of successive reforms over recent years, and particularly with the adoption of new Public Contracts Codes in 2001 (Decree No. 2001-210 of 7 March 2001), 2004 (Decree No. 2004-15 of 7 January 2004) and 2006 (Decree No. 2006-975 of 1 August 2006).

The Committee notes with regret that, contrary to Decree No. 64-729 of 17 July 1964 issuing the Public Contracts Code, which was previously applicable, the more recent versions of the Public Contracts Code, and particularly that of 2006, do not envisage the inclusion of labour clauses in public contracts. Section 14 of the Public Contracts Code of 2006 provides that "the conditions for the execution of a contract or a framework agreement *may* include elements of a social nature ...". Furthermore, under the terms of section 55, the adjudicating authority *may* reject an offer which appears abnormally low taking into consideration, among other factors, the provisions respecting working conditions in the location in which the service is to be provided.

The Committee is bound to observe that these provisions, which are purely optional for the adjudicating authority, do not in any manner provide for compliance with the fundamental obligation imposed by *Article 2 of the Convention*. Under the terms of this provision, the public contracts to which the Convention applies *shall* include clauses ensuring to the workers concerned wages, hours of work and other conditions of labour which are not less favourable than the most favourable conditions established according to one of the three formulae envisaged by the Convention, that is by collective agreement, arbitration award or by national laws or regulations.

The Committee further notes that the provisions of the schedules of general administrative clauses for the various types of public contracts, to which no obligatory reference is to be made under the terms of section 13 of the Public Contracts Code of 2006, do not give effect to the Convention. They are confined to providing that the entrepreneur is subject to the obligations arising out of laws and regulations respecting the protection of workers and working conditions (section 9 of the Schedule of general administrative clauses applicable to public works contracts, approved by Decree No. 76-87 of 21 January 1976; section 5 of the Schedule of general administrative clauses applicable to public contracts for current supplies and services, approved by Decree No. 77-699 of 27 May 1977; section 9 of the Schedule of general administrative clauses applicable to public contracts for intellectual services, approved by Decree No. 78-1306 of 26

December 1978; and section 8 of the Schedule of general administrative clauses applicable to industrial contracts, approved by Decree No. 80-809 of 14 October 1980).

The Committee notes in this respect the Government's contention in its previous report that taking into account the extent of the application of legislation respecting working conditions and the coverage of collective agreements, the provisions of Convention No. 94 intended to prevent distortions in working conditions to the detriment of workers performing work in the context of public contracts and on the sole grounds that they are performing such work, have lost their value.

The Committee recalls that the mere fact that the labour legislation is applicable to workers engaged in the context of public contracts does not in any way exempt the Government from providing for the inclusion in public contracts of the labour clauses envisaged by the Convention. Such inclusion ensures the protection of workers in cases in which the legislation only establishes minimum conditions of work which may be exceeded by general or sectoral collective agreements. Indeed, the fundamental principle on which the Convention is based is that, when entering into contractual commitments involving the expenditure of public funds, the public authorities shall avoid any social dumping resulting from the intense competition prevailing in the field of public tenders.

Even if collective agreements are applicable to workers engaged in the context of the execution of public contracts, the implementation of the Convention retains its full value in so far as its provisions are designed precisely to ensure the specific protection needed by such workers. For example, the Convention requires the adoption by the competent authority of measures, such as the advertisement of specifications, to ensure that persons tendering for contracts are aware of the terms of the labour clauses (*Article 2, paragraph 4*, of the Convention). Notices must be posted in conspicuous places at the workplace to inform workers of their conditions of work (*Article 4(a)*). Furthermore, the existence of the sanctions envisaged by the Convention, such as the withholding of contracts or payments due to contractors (*Article 5*), permits the imposition of sanctions on the contractor, in the event of the violation of labour clauses, which may be more directly effective than those available for violations of the general labour legislation.

Finally, the Committee wishes to emphasize that the former Public Contracts Code, adopted by Decree No. 64-729 of 17 July 1964, gave full effect to the Convention by providing in section 117 that schedules of general administrative clauses had to contain clauses under which the entrepreneur or supplier, without prejudice to compliance with the requirements of laws and regulations respecting the protection of workers, undertook to comply with a number of conditions relating, among other matters, to wages and other conditions of work.

The Committee trusts that the Government will rapidly adopt appropriate measures to once again ensure the full application of the Convention, for example by adopting provisions similar to those of sections 117 to 121 of the 1964 Public Contracts Code.

French Guiana

Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

The Committee takes note of the Government's report. ***It asks the Government to refer to its observation on the application of the Convention by France.***

Part V of the report form. The Committee notes the Government's reply to its previous comments. It notes that public contracts account for nearly 70 per cent of the work done in the construction sector, and that the use of subcontracting outside the legal provisions in force has been a particular problem since 2004. The Committee notes with interest that both the police and the labour inspectorate have brought action against the offenders and that the supervisory services have made the solution of this problem a priority for 2007. ***The Committee requests the Government to continue to provide information on the action taken in this connection and on the results obtained.***

Guadeloupe

Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

The Committee notes that, in reply to its previous comment, the Government confirms that the legislation respecting public contracts is identical to that of Metropolitan France. ***The Committee requests the Government to refer to its observation on the application of the Convention by France.***

Martinique

Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

The Committee notes with regret that the Government's report has not been received.

It asks the Government to refer to its observation on the application of the Convention by France. Moreover, the Committee once again asks the Government to respond to its previous comments concerning the widespread outsourcing practices in the construction and public works sector, and the measures taken to give effect to the Convention in relation to subcontractors or assignees of public contracts and the results achieved.

Réunion

Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

The Committee notes the brief report sent by the Government. *It asks the Government to refer to its observation concerning the application of the Convention by France.*

St. Pierre and Miquelon

Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

The Committee notes that France's Public Contracts Code applies to St. Pierre and Miquelon. *It accordingly asks the Government to refer to the observation it has made on the application of this Convention by France.*

The Committee also notes that the Government has requested assistance from the authorities in metropolitan France with a view to submitting a full report showing the status of the legislation on this subject and how it is applied in St. Pierre and Miquelon. *The Committee requests the Government to provide such information as soon as it becomes available.*

Part V of the report form. The Committee notes the information appended to the Government's report regarding the labour inspection services. *It requests the Government to continue to provide information of this nature, specifying whether particular difficulties have been encountered by the labour inspection services in applying the existing labour legislation in relation to the performance of public contracts.*

Ghana

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1961)

The Committee notes the Government's report which essentially reproduces information communicated to the Office before. The Committee recalls that it has been commenting on the application of the Convention since its ratification by Ghana and regrets that the Government is still unable to indicate any real progress in bringing its national legislation into conformity with the requirements of the Convention. The Government makes renewed reference to section 118 of the Labour Act 2003 even though the Committee has already noted that this provision is not strictly relevant to the subject matter of the Convention and does not give effect to *Article 2 of the Convention* which explicitly requires the insertion of labour clauses in those public procurement contracts meeting the conditions specified in *Article 1* of the Convention. In fact, the general principles set out in the Labour Act regarding minimum wage fixing, maximum working hours or occupational safety and health cannot automatically guarantee to the workers concerned labour conditions which are not less favourable than whichever is the most favourable of the three alternatives provided for in the Convention, i.e. collective negotiation, arbitration or legislation.

As the Committee has stated on a number of occasions, the legislation to which the Government refers in most cases lays down minimum standards, for instance as regards wage levels, and does not necessarily reflect the actual working conditions of workers. Thus, if the legislation lays down a minimum wage but workers in a particular profession are actually receiving higher wages, the Convention would require that any workers engaged in the execution of a public contract be entitled to receive the wage that is generally paid rather than the minimum wage prescribed in the legislation. In other terms, the application of the general labour legislation is not enough in itself to ensure the application of the Convention, inasmuch as the minimum standards fixed by law are often improved upon by means of collective agreement or otherwise.

Moreover, the Government refers once more to the fact that individuals or firms are required to obtain labour clearance certificates before they are allowed to tender for public contracts. In this regard, the Committee is bound to recall that the essential purpose of the insertion of labour clauses in public contracts goes beyond the aims of simple certification, as its purpose is to eliminate the negative effects of competitive bidding on the workers' labour conditions. The Convention seeks to ensure the contractor's commitment to apply high standards of social responsibility in the execution of a public contract which is in the process of being awarded and therefore a mere indication that the contractor concerned has no record of labour law violation in previously completed works is not sufficient to meet its requirements. *As regards the adoption of the new Public Procurement Act 2003, the Committee would be grateful if the Government would specify the provisions referring to the labour clearance certificate and also forward a copy of the standard tender document used for this purpose.*

In the interest of maintaining a constructive dialogue, the Committee would therefore appreciate if the Government would indicate in its next report any concrete measures taken or contemplated to implement the Convention in law and practice, and recalls in this respect that the inclusion of labour clauses in all the public contracts covered by the Convention does not necessarily call for legislative enactment but may also be effected by means of administrative instructions or circulars.

Greece

Protection of Wages Convention, 1949 (No. 95) (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:

Further to its previous observations concerning the application of *Articles 4 and 7 of the Convention*, the Committee notes the Government's explanations, in particular the reference to article 653 of the Civil Code which, according to the Government's report, explicitly takes up the provisions of the Convention in respect of the payment of wages in kind. The Committee is inclined to believe, however, that the quoted text is part of a commentary, possibly from an annotated edition of the Civil Code, rather than the actual text of article 653 of the Civil Code. ***It would therefore request the Government to provide in its next report further clarifications on this point and to transmit a copy of the legislative text in question.*** The Committee wishes to refer in this connection to paragraph 510 of its 2003 General Survey on protection of wages in which it expressed the view that some of the provisions of the Convention require specific practices to be prohibited or to be regulated in a particular manner and thus call for legislative action to this effect, while others merely require certain practices to be followed and thus seem to leave scope for implementation by various means, including custom or practice. ***Recalling that the provisions of Article 4, paragraphs 1 and 2, and Article 7, paragraph 2, of the Convention are not self-executing and therefore require the competent authorities to take appropriate measures to ensure their observance, the Committee hopes that the Government will make every effort to take the necessary action and bring its legislation into conformity with the Convention. Finally, the Committee would appreciate if the Government could provide, in accordance with Part V of the report form, general information on the practical application of the Convention, including any difficulties encountered with respect to the timely payment of wages, extracts from labour inspection reports, copies of any official publications or studies relating to the questions dealt with in the Convention as well as any other particulars bearing on the implementation and enforcement of the Convention.***

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

Grenada

Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) (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:

Article 1, paragraph 1, of the Convention. The Committee notes that, according to the Government's report, the Labour Code has provisions for minimum wage orders in agriculture and other sectors. The Committee understands that the Government is referring to the Employment Act No. 14 of 1999. It notes that, under section 51 of the Act, wages advisory committees are to be established in the agricultural sector where no arrangements exist for the effective regulation of wages. According to the same provision, the wages advisory committees are to investigate conditions of employment in the agricultural sector and make recommendations as to the minimum rate of wages which should be payable. The Committee also notes that, in accordance with the procedure laid down in section 52 of the Act, minimum wage orders for the agricultural sector are to be adopted. The Committee understands that the wages advisory committees have been set up and have adopted orders to adjust minimum wages with effect from 1 September 2002. ***The Committee requests the Government to confirm whether this assertion is so and to send a copy of the abovementioned orders.***

Article 3. The Committee notes that according to the Government the minimum wage orders have been updated and the new wage rates took effect on 1 September 2002. ***The Committee asks the Government to indicate whether the employers' and workers' organizations have been fully involved in the revision process and whether the latter was carried out in the wages advisory committee pursuant to section 51(3) of the Employment Act, in accordance with the Convention.***

Article 4, paragraph 2, in conjunction with Part V of the report form. The Committee notes the inspection system set up by the second part of the Employment Act. ***It requests the Government to specify the measures most appropriate to conditions in agriculture that have been applied for supervision, inspection and the imposition of penalties, in accordance with this provision of the Convention.***

Article 5. ***The Committee requests the Government to give, in its next report, particulars of the arrangements for applying minimum wage fixing procedures in agriculture regarding, inter alia, the occupations and approximate numbers of workers subject to such regulation, the rates of minimum wages set and all other important minimum wage-related measures.***

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

Guatemala

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1952)

The Committee notes that, in its report, the Government responds essentially to the observations previously made by the Trade Union of Workers of Guatemala (UNSITRAGUA) concerning different types of labour contracts, a matter which is not addressed by the Convention. The Committee also notes that, in response to its previous comments, the Government limits itself to indicating that it is for each body that is party to a public contract to choose whether to insert or not to insert labour clauses into this contract, but that under no circumstances is it possible to waive social rights, in accordance with section 12 of the Labour Code and articles 102 to 113 of the Constitution.

The Committee is once again obliged to recall the obligations imposed by the Convention. Even if, as the Government indicates, the social legislation, in particular the Labour Code, is applicable to workers employed within the framework of public works contracts, it is imperative that public contracts contain the labour clauses envisaged by the Convention. The inclusion of such clauses ensures to the workers concerned wages, hours of work and other conditions of labour which are not less favourable than *the most favourable* conditions provided for in accordance with one of the three formulas envisaged by the Convention, namely by collective agreement, by arbitration award or by national laws or regulations. The protection of workers is thus ensured in cases where the legislation sets forth only minimum labour conditions likely to be exceeded by general collective or sectoral agreements. The Committee insists on the importance of complying with this principle, given the risk of social dumping linked to the severe competition between enterprises for public works contracts.

In this regard, the Committee recalls that it noted with satisfaction, in a 1987 observation, the adoption of the Ministerial Agreement of 21 November 1985 approving a model of labour clauses to be included in contracts concluded by the public authorities. ***The Committee asks the Government to indicate whether this Ministerial Agreement is still in force. If it is not, the Committee strongly hopes that the Government will, without delay, take the necessary measures to ensure the application of the Convention, and asks it to keep the Committee informed of any developments in this regard.***

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1988)

The Committee notes the information provided by the Government in response to the comments made by the Trade Union Confederation of Guatemala (UNSITRAGUA) in October and November 2004. The Committee regrets the delay by the Government in reacting to these observations and must request further information on certain points.

1. With regard to the current level of minimum wage rates, the Committee notes the Government's reply to the observations made by UNSITRAGUA, in which it indicates that the cost of a household basket of essential goods (*Canasta Básica Vital* – CBV), according to the information of the National Institute for Statistics for the month of March 2006, was 2,725 quetzal (around US\$371) for a family of five persons. As, according to the Institute, in each family an average of two members have a job, the Government considers that the current level of the minimum wage in effect represents an overall purchasing power which enables workers to meet their most essential needs. The Government adds that the minimum wage has always fulfilled its nutritional objective and is adjusted to the socio-economic situation of the country. While noting the Government's explanations on this point, the Committee observes that the objective of a minimum wage system, as a social protection and poverty reduction measure, can only be met if the rate of the minimum wage is sufficient to cover the needs of workers and their families – and not only their nutritional needs. It also recalls the requirement of consultation with the social partners at all stages of the process of determining the minimum wage, including the collection of data and the carrying out of studies for the information of the minimum wage-fixing authorities. The Committee considers that the manifest and considerable differences which persist between the Government and the trade union movement concerning the calculation of the minimum subsistence needs of a household should be the subject of effective consultations held in good faith with a view to determining a minimum wage rate that is really adequate for the essential needs of workers. ***The Committee requests the Government to indicate how it intends to give effect to these observations and to keep it informed of progress with regard to the adjustment of minimum wage rates. It would also be particularly interested in receiving comparative statistical data, such as information on the average increase in minimum wage rates over the past ten years in relation to movements in economic indicators, such as inflation, over the same period.***

2. With regard to the problems related to the payment of wages under the minimum rate, particularly in the agricultural sector, the Committee notes the Government's indication that failure to apply the provisions respecting minimum wages results in liability to a financial penalty envisaged by the law and that workers can therefore denounce failure to comply with legislative provisions to the competent administrative or judicial authorities. In this respect, the Committee is bound to note that, over and above the legal framework for the prevention and penalization of infringements of the legislation on minimum wages, it is necessary for the legislation to be applied in a rigorous and effective manner. Indeed, the Committee understands that over half of workers in rural areas do not receive the wages, allowances and other supplements to which they are entitled. ***In these circumstances, the Committee would expect the Government to provide detailed information, including statistics, on the activities of the inspection services – particularly in the agricultural sector – demonstrating the number of inspections carried out, the nature of the infringements reported and the sanctions applied, as well as any court decisions relating to the payment of minimum wages.*** The Committee also recalls that it has made a similar request for practical information, supported by the relevant documents, in its observation on the application of the Labour Inspection Convention, 1947 (No. 81).

3. With regard to a possible introduction of minimum remuneration rates based on productivity, which were denounced by UNSITRAGUA in its comments, the Committee notes the Government's explanations that such a decision can only be taken in the National Wage Commission (CNS) with the participation of the social partners and that Government Agreement No. 640-2005, which determines minimum wage rates for 2006, does not provide for the payment of wages on the basis of the productivity of workers. The Committee observes that, with a view to preventing abuse, subjective assessments of the quantity and quality of work performed should not affect the right to the payment of a

minimum wage as an equitable level of remuneration in return for work duly performed during a specified period. *It requests the Government to keep it informed of any development in this field.*

Guinea

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1959)

Articles 1 and 3 of the Convention. Introduction of a minimum wage and consultation of the social partners. The Committee notes with regret that, according to the information contained in its report, the Government is maintaining its decision not to introduce the guaranteed inter-occupational minimum wage (SMIG) at the present time in view of the economic situation of the country. It also notes that, as acknowledged by the Government in its report, the introduction of a minimum wage is an important claim of national trade union organizations. The Committee notes in this respect that in November 2005 a 48-hour general strike was called by the National Confederation of Workers of Guinea (CNTG), and that the claims included the establishment of a minimum wage. In this context, it notes with concern that the inflation rate in Guinea appears to be particularly high (in the order of 30 per cent in the second half of 2005), which makes it all the more necessary to ensure workers a minimum wage permitting them and their families to benefit from a satisfactory standard of living.

The Committee deplores the fact that, despite its repeated comments on the subject, the Government has still not been able to adopt the decree determining the minimum guaranteed wage rate for one hour of work, as provided for in section 211 of the Labour Code. *The Committee therefore urges the Government to take the necessary measures without further delay to give effect to the provisions of the Convention by adopting the implementing decree for section 211 of the Labour Code. The Committee would also be grateful to be provided with more detailed information on the measures adopted or envisaged to ensure effective consultations with the social partners on equal terms in all the stages of the process of fixing minimum wages, as required by the Convention.*

Collective agreements. The Committee notes that, according to the information provided by the Government in its report, the minimum wage rates in the various sectors are determined in collective agreements. In this respect, it is bound to recall that the fixing of minimum wages by collective agreements is only permitted under certain conditions: the minimum wages must have the force of law, not be subject to abatement and failure to apply them shall make the person or persons concerned liable to appropriate penal or other sanctions (see paragraphs 99 to 101 of the 1992 General Survey on minimum wages). *The Committee therefore requests the Government to indicate the manner in which compliance with these principles is ensured in the context of the system for fixing minimum wages by collective bargaining. It requests the Government to provide copies of these sectoral collective agreements containing provisions relating to the minimum wage and to indicate the number of men and women, and of adults and young persons, covered by such provisions.*

[The Government is asked to reply in detail to the present comments in 2007.]

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1966)

The Committee notes with regret that the Government's report contains no reply to its previous comments but essentially reproduces information already submitted in earlier reports which the Committee has considered to be strictly irrelevant to the scope and content of the Convention. The Committee is once again led to conclude that for the last 40 years there has been practically no progress in implementing the provisions of the Convention in either law or practice. The Committee expresses its deep disappointment about the Government's continued failure to apply the Convention despite the technical assistance provided by the Office in 1981 and the numerous commitments made by the Government, ever since, as regards the drafting and adoption of specific regulations or legislation concerning public contracts. *Under the circumstances, the Committee hopes that the Government will make a sincere effort to maintain a meaningful dialogue with the ILO supervisory bodies and once more urges the Government to take all necessary measures without further delay in order to bring its national law and practice into conformity with the clear terms and objectives of the Convention.*

[The Government is asked to report in detail in 2007.]

Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) (ratification: 1966)

The Committee notes that the Government's report has not been received and therefore once more refers the Government to the comments made under Convention No. 26.

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

India

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

The Committee notes the information provided by the Government in reply to its previous observation. Concerning the extension of the application of the Minimum Wages Act, 1948, to cover home workers, the Committee notes that the State of Karnataka is at present the only state government which has included home workers in scheduled employment and accordingly fixes minimum wage rates for those workers. *Noting that minimum wages are currently fixed by the central and state governments for a total of 1,568 scheduled employments, the Committee requests the Government to continue to provide up to date information on any new categories of workers, including home workers, coming under the scope of the Minimum Wages Act.* As regards the ongoing process of a comprehensive amendment of the Minimum Wages Act, the Committee notes that various proposals have been examined by the Central Advisory Board and also discussed at other forums, such as the 2005 session of the Indian Labour Conference. *Recalling that, as previously reported by the Government, certain modifications are explored with a view to rendering the provisions of the Minimum Wages Act more stringent, the Committee asks the Government to keep it informed of any progress made in this regard.*

1. *Introduction of a national “floor-level” wage applicable to all workers.* The Committee notes the explanations provided by the Government on the establishment of the national floor-level minimum wage (NFLMW) and its legal status. The NFLMW was initially fixed in 1996 at Rs.35 per day (approximately US\$0.75) based on the recommendation of the National Commission on Rural Labour, and was last raised in 2004 to Rs.66 per day (approximately US\$1.42) upon the recommendation of the tripartite Central Advisory Board. The NFLMW is a non-statutory measure, persuasive in nature that the state governments are requested to consider as a threshold below which no minimum pay rates should fall. The Committee notes, however, that, according to the statistical data annexed to the Government’s report, 15 among the 35 states/union territories apply sub-NFLMW minimum rates, in some cases as low as Rs.44 per day. *Recalling that the ultimate objective of a minimum wage system is to guarantee a decent standard of living for low-paid workers and their families, the Committee asks the Government to indicate whether the national floor-level minimum wage is currently situated above the poverty threshold and also whether any steps have been taken or are envisaged for its revision. Moreover, the Committee would appreciate receiving the Government’s explanations as to the means at its disposal for promoting compliance with the NFLMW among states and union territories applying significantly lower minimum wage rates.*

In addition, the Committee understands that the Government has given consideration to establishing a uniform Rs.60 minimum wage rate for agricultural workers in all states under the recently introduced National Rural Employment Guarantee Scheme. *The Committee asks the Government to provide additional information on this initiative, especially as regards the method used for fixing the level of the uniform minimum wage and the content of any consultations that may have taken place to this effect.*

2. *The operation of the minimum wage fixing machinery.* The Committee notes the Government’s indication that, when fixing or revising minimum wages by notification, state governments are bound to consult an advisory board which consists of an equal number of employers’ and workers’ representatives, as set out in sections 5, 7 and 9 of the Minimum Wages Act, 1948. It also notes the information according to which the Central Advisory Board meets frequently, last in June 2005, while the Minimum Wage Advisory Board in the central sphere held its last meetings in July 2004 and May 2005. *The Committee would be grateful if the Government would specify in its next report: (i) the state governments/union territories which fix or revise minimum wages by means of consultation and notification respectively; (ii) whether advisory boards are established and active in all states/union territories without exception; (iii) any practical difficulties experienced in the operation of the minimum wage fixing machinery, especially with regard to the periodicity of the revision of minimum wage rates and the participation of employers’ and workers’ organizations in that process.*

3. *Enforcement of minimum wages.* The Committee notes the Government’s indications concerning the powers of labour inspectors in matters of minimum wages, as provided for in section 19 of the Minimum Wages Act. It also notes the statistical information regarding inspection results in different states/union territories for the period 2002–05. *The Committee asks the Government to continue to provide detailed information on all measures aiming at enhancing the enforcement of the minimum wage legislation, such as the reinforcement of the labour inspection services, the introduction of stricter and truly dissuasive sanctions, accelerated proceedings for the rapid recovery of underpaid wages, etc.* In this connection, the Committee refers to its latest observation made under Convention No. 81, in particular the need for penalties to be fixed at a sufficiently high level and be periodically reviewed and also the importance of gradually improving the human and material resources of the labour inspectorate.

4. *Observations by the Centre of Indian Trade Unions.* The Committee notes the detailed comments of the Centre of Indian Trade Unions (CITU), dated 26 May 2006, regarding the procedure for elaborating the consumer price index which is used for the fixation and revision of minimum wages. According to the CITU, the Government has unilaterally introduced a new series of the consumer price index for industrial workers despite repeated joint communications of all the central trade unions organizations opposing such initiative. The trade union organization considers that the index

figures released by the Labour Bureau fail to correctly reflect the inflation or price rise at the ground level due to manipulations in price collection and compilation process and as a result workers have lost faith in the price index machinery. In this connection, it denounces a number of irregularities observed in the price collection process which render the entire mechanism non-transparent and fraudulent. Referring to the two Index Review Committees, which had been appointed in 1978 and 1980, and which had recommended wider participation of the social partners in the different stages of the compilation of consumer price index numbers, the CITU regrets that several recommendations of those bodies have not yet been implemented. It is indicative that the Labour Bureau has completed the recent exercise of updating the consumer price index without holding any nationwide consultation except for the National Level Index Users' Meeting of May 2005 in which the representatives of all the central trade union organizations demanded that all substantive issues connected with updating the consumer price index, such as the selection of the base year, conduct of family income and expenditure surveys, methodology of index compilation, selection of centres, methods of sampling, agencies for carrying out the surveys, etc., should be thoroughly deliberated. The CITU concludes that the Government should appoint a consumer price index review committee, as requested by all central trade unions, and take the necessary steps to rectify the malpractices prevalent in the present price compilation process.

The Committee recalls that, in accordance with the letter and the spirit of the Convention, the representatives of the employers and workers concerned should be associated at all stages of the operation of the minimum wage fixing machinery, and therefore should be fully consulted also with regard to the collection of data and the carrying out of studies directly related to the determination of minimum wage levels. *The Committee would appreciate receiving the Government's reply to the comments of the CITU in respect of the revision of the consumer price index.*

Islamic Republic of Iran

Protection of Wages Convention, 1949 (No. 95) (ratification: 1972)

The Committee recalls its previous observations concerning the wage crisis that has been affecting a large number of enterprises, especially in the textile sector, as a result of globalization, low productivity, and insufficient private investment. The Committee has been in receipt of the report of the technical assistance mission to the Islamic Republic of Iran undertaken by the Office in April 2006. The three-day mission was scheduled as a follow-up to the discussion that took place in the Conference Committee of the Application of Standards in June 2005. The purpose of the technical assistance mission was to hold broad consultations with the tripartite constituents and reach a better understanding of the labour realities in the country including, but not limited to, the problem of wage arrears. The mission also addressed the question of the promotion of competitiveness and productivity in the textile industry with a view to considering the possibility of technical cooperation in this field.

Having duly examined the Office report, the Committee is satisfied that the numerous meetings with Government officials, public institutions and employers' and workers' organizations – held in a true spirit of openness and goodwill – have permitted a clear and objective appreciation of the nature, the scale and the causes of the wage difficulties experienced in certain sectors of the national economy. The Committee notes that, according to the Office report, even though irregularities in the payment of wages continue to occur, the problem is tackled rather satisfactorily by the Government and the judiciary, while there is no indication that payment in kind (barter) is offered in lieu of cash wages (paragraph 39). It also notes with interest the view expressed in the report that there is no evidence that the country is faced with a widespread wage crisis, or a non-payment of wages "culture", either in terms of the number of workers affected or in terms of the average length of the delay in the payment of wages (paragraph 49). Apart from those positive findings, however, the report refers to the lack of reliable statistics as an indication of the poor monitoring of the wage situation on the part of the competent authorities. The Committee trusts that the Government will take due note of the conclusions of the technical assistance mission report and will avail itself of the Office's advisory services in pursuing the current labour law reforms. *The Committee hopes that the Government will make every effort to collect and communicate concrete figures regarding the total amount of any outstanding wage arrears, the approximate number of workers and enterprises concerned and the average delay in the payment of wages. The Committee requests the Government to provide full particulars on any measures aiming at improving the enforcement of the labour legislation as regards the regular payment of wages, for instance by strengthening the labour inspection system or providing for truly dissuasive sanctions.*

Iraq

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

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

1. The Committee has been commenting on the measures to be taken following the recommendations of the tripartite committee set up to examine the representation made by the Federation of Egyptian Trade Unions under article 24 of the ILO Constitution, alleging non-observance by Iraq, inter alia, of the Convention (GB.250/15/25, May–June 1991), concerning non-payment of wages owed to Egyptian workers employed in Iraq, who left the country both before and after the invasion of Kuwait. In its previous observation, the Committee noted the Government's indication that the workers who left since the imposition of

the embargo, which resulted in the freezing of Iraqi assets in foreign banks, received their wages in conformity with the law, with the exception of the percentage to be transferred in foreign currency. In this connection, the Government indicates in its report that, although the Off-America Bank of New York had released an amount of US\$20 million from the deposit owned by the Iraqi Rafedain Bank's Cairo Branch to cover some of the Bank's outstanding transfers, none of the suspended outstanding transfers have been paid by the Cairo Branch of the Rafedain Bank.

The Committee recalls that the above tripartite committee made recommendations in its report, which was approved by the Governing Body of the ILO, that the Government should: (i) take appropriate measures so that the number of workers involved and the amounts owed to them will be determined; and (ii) take measures necessary for the effective payment of such amounts. The Committee notes that no specific information has been received on either of these points. It is therefore obliged to repeat its hope that the Government will take all the necessary measures and provide information on them.

2. The Committee notes the copy of the Labour Movement Agreement concluded between Iraq and the Philippines, attached to the report. It notes that, under article 12 of this Agreement, the workers employed under the agreement may transfer a percentage of their income through the normal banking channels in accordance with the receiving country's instructions and regulations on foreign transfers. The Committee requests the Government to clarify up to what percentage of the income the workers are allowed to remit under this provision. It would also be grateful if the Government would supply further information on the relevant instructions and regulations on foreign transfer.

3. The Committee recalls that it has noted, in its earlier observation, section 7 of the Labour Code which prescribes the treatment of Arab workers on an equal footing with Iraqi workers in regard to the rights and duties set forth in the Code, and an Agreement between Iraq and the Philippines stipulating the reciprocal equal treatment of migrant workers and nationals. ***The Committee again requests the Government to supply information concerning the protection of wages of non-Arab foreign workers who are not from the Philippines.***

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

Republic of Korea

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) ***(ratification: 2001)***

See under Convention No. 131.

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 2001)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 6 September 2005 alleging formal and material breaches of the minimum wage legislation by the Government.

According to the ICFTU, the minimum wage rates announced on 8 July 2005 to be applicable as from September 2005 were adopted at the Minimum Wage Council's meeting of 29 June 2005 despite the absence of all nine worker members. The ICFTU indicates that the workers' representatives left the meeting because of heavy police presence monitoring the council's discussions and creating a threatening environment totally inappropriate for tripartite consultations. The decision taken with only the presence of seven government representatives and nine employer members was thus in contravention of quorum rules and, more concretely, section 17(4) of the Minimum Wage Act which requires the presence of at least one-third of the workers' and employers' members, respectively for a valid decision, unless these members fail to attend without justifiable reasons even after having been given two or more summon notices. Moreover, the ICFTU considers the minimum wage-fixing decision to be objectionable because it was based solely on economic parameters with no consideration for social conditions, such as the negative repercussions of the adoption of the 40-hour workweek on the livelihoods of minimum wage earners.

In its reply, dated 24 May 2006, the Government explains that the worker members of the Minimum Wage Council walked out after a vote had been called, thus voluntarily giving up their right to vote, and therefore the decision was valid and lawful in accordance with the administrative practices set out in the Minimum Wage Act and followed by the Minimum Wage Council. It also indicates that police forces were present outside the meeting room, simply on standby, as some members of the Korean Confederation of Trade Unions (KCTU) had illegally occupied the meeting room the previous day and caused the suspension of the council's meeting. As regards the criteria taken into consideration for the periodical adjustment of minimum wage rates, the Government specifies that the wage of workers remunerated at the minimum wage rate will not be reduced even if the weekly working hours are shortened from 44 to 40 hours because their wage level will be maintained under the revised Minimum Wage Act of May 2005. The Government adds that the minimum wage applies to all workers, whether regular or non-regular (including part-time workers), in enterprises with one or more workers, and also that various allowances such as the overtime work allowance are not included in the minimum wage.

The Committee recalls that direct, genuine and effective consultations with the social partners on an equal footing constitute the very essence of the Convention. The Committee also recalls that the ILO Committee on Freedom of Association has emphasized on numerous occasions the importance it attaches to the obligation to negotiate in good faith for the maintenance of the harmonious development of labour relations. ***The Committee therefore expresses the hope that the Government will make every effort to restore a non-conflictual climate within the Minimum Wage Council based on trust, full respect for social dialogue and strict application of standing rules and procedures. It also expects the***

social partners to exercise their rights and pursue their legitimate objectives within institutional limits in the interest of best serving those most in need of minimum wage protection.

The Committee is raising other points in a request addressed directly to the Government.

Libyan Arab Jamahiriya

Protection of Wages Convention, 1949 (No. 95) (ratification: 1962)

The Committee notes the discussion that took place in the Committee on the Application of Standards at the 95th Session of the International Labour Conference (June 2006). It notes, in particular, the Government's explanations regarding the incidents that led to the expulsion of illegal immigrants – a phenomenon on the rise since migrant workers are increasingly transiting through Libyan territory in order to reach European countries. It also notes that the Government flatly denies all allegations about unpaid wages owed to expelled workers considering such claims to be unfounded and undocumented. It also notes the Government's reference to the ongoing process of amending the labour legislation and its readiness to receive technical assistance from the Office in order to facilitate the full application of ratified ILO Conventions. The Committee understands that a technical assistance mission is being planned in consultation with the Government to follow up on the conclusions of the Conference Committee.

In its last report, the Government reiterates the view that no worker with valid residence or work permit has ever been repatriated but only workers whose status was illegal have been repatriated in coordination with the authorities of their home countries and at the cost of the Libyan Government. The Government states that, as an expression of its goodwill, it stands ready to receive any claim for wages due from any individual, either directly or through a trade union in the worker's country, regardless of the manner in which the worker might have entered the Libyan Arab Jamahiriya and also regardless of whether he might have obtained or not a formal residence and work permit.

While noting the Government's explanations, the Committee is bound to recall that all persons to whom wages are paid or payable, including clandestine migrant workers, should enjoy the protection of the Convention and therefore no matter the legal formalities for the deportation of illegal immigrants, any outstanding wage debts for work already performed or services already rendered should be fully honoured. *The Committee asks the Government to keep it informed of any further development, especially claims for unpaid wages owed to foreign workers. The Committee would be grateful to be informed of the manner by which foreign workers have been or will be advised that they may recover wages due to them and to be provided with information in respect of any claims that may have received from undocumented foreign workers, or trade unions acting on their behalf, for wages unpaid at the time those workers were deported from the Libyan Arab Jamahiriya.*

As regards the application of *Articles 2, 4, 7 and 8 of the Convention*, the Committee notes that for some of these provisions the Government refers once more to a new draft labour code which is expected to bring the national legislation into closer conformity with the requirements of the Convention, while for some others it reproduces information which has already been examined and commented upon by the Committee on numerous occasions. The Committee expresses the hope that the Government will avail itself of the forthcoming technical assistance mission of the International Labour Office with a view to clarifying any persistent doubts on the scope and content of the Convention and finally giving full effect to its provisions. *The Committee asks the Government to provide full particulars on the measures taken or envisaged following the technical assistance received from the Office with a view to better implementing the Convention. It also asks the Government to forward a copy of the draft labour code in its current form and to keep it informed of any progress made regarding its adoption.*

Myanmar

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1954)

The Committee notes the Government's report. It notes, in particular, that by Notification No. 60/2006 of 24 March 2006, the Ministry of Finance and Revenue has increased the minimum wage rate for public employees to 15,000 kyats (approximately US\$18.75) per month whereas the minimum wages applicable to the traditional rice-milling and the cigar- and cheroot-rolling industries remain unchanged at the level established more than ten years ago, that is 100 kyats (approximately US\$0.13) per day or 3,000 kyats (approximately US\$3.75) per month. The Government makes also reference to a survey conducted in 105 factories, mainly in the garment, wood and fish processing industries, showing that the minimum wage rates practiced in these enterprises are higher than the minimum wages applicable in the public sector.

Article 1, paragraph 1, and Article 3, paragraph 2(2), of the Convention. The Committee notes the Government's indication that the possible establishment of new minimum wages councils will be considered after the new Constitution is promulgated. It recalls, in this regard, that the Government has been reporting for a number of years that the extension of the minimum wage-fixing machinery to other industries such as the printing, oil-milling and garment industries is under consideration. In addition, the Government has been indicating that the minimum wage rates applicable to the rice-milling

and the cigar- and cheroot-rolling industries are no longer in line with market wages and need to be adjusted. The Committee is concerned about the absence of any concrete progress in either direction and draws once more the Government's attention to the fact that the application of a minimum wage system may only serve a meaningful purpose if it allows for the periodic review and adjustment of minimum wage rates in a manner that permits low-paid workers to satisfy their basic needs and enjoy a decent standard of living. Otherwise, minimum wages lose their purchasing power and eventually become irrelevant. *The Committee urges therefore the Government to take the necessary measures to ensure that the scope and level of minimum wage rates are such as to permit them to fulfil their role as tools of social protection and poverty reduction.*

Article 5 and Part V of the report form. The Committee notes that according to the latest statistical information provided by the Government, concerning the number of establishments subject to minimum wage orders and the number of workers covered, in 2005–06 there were 4,061 enterprises employing 7,873 workers in the rice-milling industry and 548 enterprises employing 2,966 workers in the cigar- and cheroot-rolling industry. *The Committee requests the Government to continue to provide up to date information concerning the application of the Convention in practice, in particular the minimum wage rates currently in force in the above industries, any comparative statistics of the evolution of economic indicators, such as the inflation rate in recent years and of minimum wage levels over the same period, extracts from official reports and relevant studies, data on inspection visits and the results obtained in matters covered by the Convention, etc.*

Romania

Protection of Wages Convention, 1949 (No. 95) (ratification: 1973)

The Committee takes note of the observations made by the Democratic Trade Union Confederation of Romania (CSDR) and the Free Trade Union Federation in Education (FSLI) concerning the application of the Convention, and the Government's reply.

According to the CSDR and the FSLI, since the adoption of Law No. 128/1997 regarding the status of teachers, the salaries of teachers have never been paid on time and in whole. The two organizations also allege that the benefits and allowances to which teachers are entitled, under section 48(1) of the Law of 1997, have been systematically miscalculated leading to illegal retentions from salaries and consequently unfair loss of income, even though the Law provides that the remuneration of the teachers should be ensured in accordance with the principle that education is a national priority. Reference is made, in this respect, to recent court decisions that have upheld teachers' claims for recalculation of benefits and indemnities and retroactive payment of salary differences.

In its reply, the Government refers to an agreement which was reached on 28 November 2005 between the Government and representatives of trade union federations in education, including the FSLI, concerning the administrative settlement of the wage debt for the period from October 2001 to September 2004. According to the terms of this agreement, the amounts owed to teachers would be reimbursed in instalments starting from February 2006 over a maximum period of 35 months. The Government also refers to Emergency Ordinance No. 17/2006, which was drafted in consultation with trade union representatives fixing the amounts which will be needed for the repayment of the wage arrears. The Government adds that the necessary budgetary arrangements have been made for 2006. *The Committee welcomes these positive developments and asks the Government to keep it informed of all further developments concerning the implementation of the 2005 agreement, and the final settlement of the accumulated wage debt to teaching staff.*

In addition, the CSDR and the FSLI state that the Government continues to fail to allocate 4 per cent of the GDP to public education, thus violating section 170(1) of Law No. 84/1995 on education, which provides that the public education system is financed through public funds at an amount equivalent to 4 per cent of the GDP, to be increased to 6 per cent by 2007. In its reply, the Government explains that, in an agreement concluded with the trade unions in education, it has committed itself to allocating supplementary budgetary resources at the level of 1.1 per cent of the GDP, so that public expenditure for education in 2006 would be raised to 5 per cent of the GDP. The Government adds that by August 2006, an additional 3076.37 millions Lei, or 0.95 per cent of the GDP, had been allocated to the education budget. *The Committee understands that the financing of education has been the source of deep controversy over the past few years and hopes that the Government will continue to seek solutions in this most sensitive area through social dialogue.*

Russian Federation

Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

The Committee recalls its previous observation concerning the persistent phenomenon of accumulated wage arrears affecting millions of workers and their families, and the need to intensify the Government's efforts in order to prevent that phenomenon from becoming endemic or cyclical. It notes with regret that the Government's report has not yet been received.

In addition, the Committee takes note of the observations made by the Independent Union of Fishermen of Kamchatka concerning the application of the Convention. The workers' organization alleges that wages due to fishers and workers in the production of fish products – a branch of economic activity with an estimated workforce of 20,000 fishers generating 80,000 jobs onshore – are in general not paid, and that there are no appropriate and effective remedies to allow the recovery of unpaid wages. *The Committee invites the Government to reply so that these comments may be examined in detail at its next session.*

[The Government is asked to reply in detail to the present comments in 2007.]

Sudan

Protection of Wages Convention, 1949 (No. 95) (ratification: 1970)

The Committee notes the information contained in the Government's report, in particular, that following the conclusion of the Naivasha Comprehensive Peace Agreement and the promulgation of a transitional constitution in 2005, a tripartite committee has undertaken the revision of the labour legislation and the preparation of a consolidated Labour Code. The Committee also notes the Government's statement that in formulating the draft new Labour Code, due account was taken of all the points raised in previous comments and therefore the new legislation is expected to give full effect to the requirements of *Articles 3* (payment in legal tender), *6* (freedom of workers to dispose of their wages), *13, paragraph 2* (place of wage payment), and *14* (notification of wage conditions and statement of earnings). *The Committee would be interested in receiving an advance copy of the draft text, and recalls that the Government may avail itself, if it so wishes, of the advisory services of the Office in finalizing the new Labour Code.*

Moreover, the Committee draws once more the Government's attention to the 2003 General Survey on the protection of wages, which reviews relevant State practice in length and gives guidance on possible ways in which legislative conformity with the Convention may be achieved. *The Committee hopes that in its next report the Government will be in a position to provide full particulars on all the matters on which the Committee has been commenting for some time past.*

Uganda

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)

The Committee notes the information provided in the Government's report, in particular the statistical data concerning the average monthly wage by industrial sector and occupation. It also notes that, according to the Government's report, the national minimum wage has not been adjusted since 1984 and currently stands at 6,000 Uganda shillings (approximately US\$3.30) per month. The Committee notes that, according to some accounts, the Minimum Wages Board had adopted in 1997 through tripartite consultations its report containing its recommendations on a national minimum wage, which was subsequently submitted to Cabinet, but no substantive action appears to have been taken since.

In this connection, the Committee recalls that the fundamental objective of the Convention, which is to ensure to workers a minimum wage that guarantees a decent standard of living for them and their families, cannot be meaningfully attained unless minimum wages are periodically reviewed to take account of changes in the cost of living and other economic conditions. The Committee has consistently taken the view that when minimum rates of pay are left to lose most of their value so that they ultimately bear no relationship with the real needs of the workers, minimum wage fixing is reduced to a mere formality void of any substance. *The Committee therefore requests the Government to indicate the measures it intends to take to ensure that the minimum wage rate in force fulfils a meaningful role in social policy, which implies that it should not be allowed to fall below a socially acceptable "subsistence level" and that it should maintain its purchasing power in relation to a basic basket of essential consumer goods. The Committee also requests the Government to keep it informed of any further developments concerning the funding and operation of the Minimum Wages Board, especially as regards the consultation and participation of the most representative employers' and workers' organizations.*

With reference to the recently enacted Employment Act, 2006, the Committee would appreciate receiving a copy. It would also be grateful if the Government could continue to supply information on the practical application of the Convention, including up to date statistics on the number of workers remunerated at the minimum wage rate, extracts from inspection reports showing the number of infringements of minimum wage legislation and sanctions imposed, as well as any other particulars which would enable the Committee to better understand the difficulties encountered or the progress achieved by the Government in discharging its obligations under the Convention.

Ukraine

Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

The Committee notes the Government's report and its detailed replies to the numerous communications received from workers' organizations regarding the ongoing wage crisis in the country.

The wage arrears situation

1. The Committee notes that, according to the latest statistics provided by the Government, in July 2006, the overall wage debt was 1.1 billion grivnas (approximately US\$218 million), which represents a 17.4 per cent decrease compared to the corresponding figures of July 2005 and an almost 85 per cent decrease compared to the record amount (7.2 billion grivnas) reached in 1999. The Government indicates that practically half of the current wage debt is owed by enterprises which are either in the process of being liquidated or have ceased their production in past years, mostly in industry and agriculture. As regards the wage arrears accumulated by economically active enterprises, the Government states that those arrears increased by 28.1 per cent at the beginning of 2006 and by another 10.5 per cent in June 2006. The number of employees experiencing delays in the payment of their wages has increased by 23.5 per cent at the beginning of 2006 and is now estimated to 500,000, the average delay being around three months for 79.2 per cent of those employees.

2. Referring to the particularly complex situation in the coal industry, the Government reports that at the beginning of 2006 the accumulated wage debt increased by 24 per cent and stood in July 2006 at 131.8 million grivnas, or 22.2 per cent of the overall amount of wage arrears of all economically active enterprises.

3. According to the statistical data provided by the Government, labour inspection results confirm that the non-payment of wages remains the most frequently observed infringement of the labour legislation, especially among private companies and agricultural enterprises. The enterprises experiencing wage arrears are subject to specific controls often giving rise to monetary fines and administrative or disciplinary sanctions against the managers of the enterprises concerned.

4. Moreover, the Committee notes the observations of the Joint Representative Body of All-Ukrainian Trade Unions and Trade Union Associations made on 23 January 2006 according to which not only has the wage arrears situation not improved but on the contrary it has considerably worsened. The Joint Representative Body alleges that, compared with the beginning of 2005, there has been a 90 per cent increase of wage arrears in the Sevastopol region, a 73 per cent increase in the Rivne region and a 66 per cent increase in the Odessa region. The Donetsk and Dnipropetrovsk regions are most affected with wage arrears totalling 268 and 106 million grivnas respectively (approximately US\$53.1 and 21 million), or 24 per cent and 9 per cent of the country's total arrears. The Committee further notes the communication of Public Services International (PSI) dated 27 January 2006 fully supporting the legitimate demands of the Ukrainian trade unions and urging the Government to pay all wage arrears and provide compensation for the delays.

5. The Committee notes with concern that the phenomenon of wage arrears proves particularly persistent and continues to defy the Government's sustained efforts. It also notes with concern that at the Cabinet of Ministers' meeting of December 2005, the Commission on issues relating to the payment of arrears of wages, pensions, grants and other social benefits expressed the view that the current measures taken by central and local executive authorities to pay off wage arrears are inadequate. ***The Committee therefore asks the Government to keep it duly informed of the evolution of the situation and to report on any new measures or initiatives aimed at resolving the wage crisis in the country.***

The situation in the Lugansk region and the Nikanor-Nova mine

6. The Committee notes that, according to inspection results referred to in the Government's report, in June 2006 there were no wage arrears in the Nikanor-Nova mine, while in July 2006 a wage debt of 620,000 grivnas (approximately US\$123,000) was observed affecting 1,623 workers. The labour inspection services also reported that 257 workers had not been paid their annual leave. The Government adds that the workers in the Nikanor-Nova mine, which is part of the public-owned enterprise Luganskugol, are paid at a rate which is in violation of collective agreements and relevant Ministerial orders fixing the minimum wage for coal-industry workers at 120 per cent of the national minimum wage. The Government states that consecutive meetings held in May–June 2006 have not succeeded in resolving the dispute between the mineworkers and the director of Luganskugol, and therefore the dispute has now been referred to arbitration. ***The Committee asks the Government to continue to closely monitor the wage situation in the Nikanor-Nova mine, as regards both accumulated wage arrears and sub-minimum wage levels, and to provide detailed information on the outcome of the arbitration process currently under way.***

7. In this connection, the Committee notes the communications of 26 September 2005, 4 November 2005, 14 February 2006 and 5 July 2006 in which the president of the Confederation of Free Trade Unions of the Lugansk region (KSPLO) transmits detailed information on the working and living conditions of those employed in the Nikanor-Nova mine. According to the KSPLO, coalmine workers in the Lugansk region continue to suffer from systematic violations of the labour legislation, in particular the delayed payment of wages or the non-payment of legally binding increases of the minimum wage and, as a result, they and their families have to endure constantly deteriorating living conditions. In its replies, the Government refers to its continuing efforts to resolve the wage crisis, especially through the intensification of inspection visits, the imposition of fines or the possible initiation of criminal proceedings against

managerial staff and, more generally, the placing of the entire coal industry under close scrutiny. *While noting that the situation with respect to wage arrears is getting slowly stabilized, the Committee requests the Government to provide detailed particulars on the settlement of past wage debts and, most importantly, on the sums paid in compensation for the injury suffered as a result of the delayed payment.*

The payment of wages in kind

8. The Committee notes with interest that the maximum permissible percentage of the wages which may be paid in kind under section 23 of the Wages Act, 1995, as amended, has been reduced from 50 to 30 per cent. According to the Government's report, at present, the partial payment in kind is limited to rural areas and is mainly practised in forestry and fishing. A multi-year study on methods of cashless payment of wages demonstrates that this method is no longer used when signing new employment contracts while manufactured products are sometimes offered to workers free of charge as a bonus. *Noting these explanations, the Committee requests the Government to confirm that the earlier practice, whereby enterprises were allowed to settle wage debts by "selling" part of their own production to their employees at an agreed price and accounting those sales as salary received, is now definitely abandoned without exception.*

Protection of wage claims in the event of the employer's insolvency

9. The Committee notes with interest the ratification by Ukraine of the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173), which was registered on 1 March 2006. It also notes the Government's reference to Act No. 2597-IV of 31 May 2005 which amends section 31 of the Act on the debtor's liquidation or bankruptcy and grants first rank privilege to workers' wage claims thus giving effect to Article 8 of ILO Convention No. 173. *The Committee would appreciate receiving a copy of the above Act.*

10. Moreover, the Committee notes the Government's reference to new draft legislation amending previous laws on the regular payment of wages aimed at reinforcing the criminal and administrative sanctions for those responsible for delayed payment of wages. *Noting that the draft bill has already received the Government's approval and will be submitted to the Parliament shortly, the Committee asks the Government to transmit a copy of the new legislation as soon as it is adopted.*

11. With regard to the possible establishment of a wage guarantee institution, the Committee notes the Government's view that such measure is believed to be premature for the time being because of the lack of public funds to finance a guarantee institution and also because of the need to diminish labour costs for employers. The Government adds that the acceptance of Part III of Convention No. 173 dealing with the protection of wage claims through a wage guarantee fund could be envisaged after the adoption of the draft law on a single social security contribution and of other legislative instruments which are designed to improve the financing of the social security system. *The Committee requests the Government to keep it informed of any further developments in this respect.*

Request for technical assistance

12. The Committee notes the Government's request for ILO technical assistance in view of the persistent difficulties encountered in the practical application of the Convention. The Government indicates that it would welcome the technical support and expert advice of the Office in two main areas: first, preparing for the eventual acceptance of Part III of Convention No. 173 and the setting up of a wage guarantee fund; and, second, enhancing the enforcement of ratified Conventions Nos. 81 and 129 concerning labour inspection. The Government suggests targeted activities such as the organization of a national seminar on wage guarantee funds, legal counselling in drafting relevant legislation, and the establishment of a permanent training centre for labour inspectors. The Committee recalls that certain activities of a similar nature have already been carried out in collaboration with the Office with positive results, such as the National Tripartite Conference addressing the problem of non-payment of wages and the establishment of a wage guarantee fund in Ukraine, which was held in February 2004. *The Committee trusts that the Government will continue to draw upon the advisory services of the International Labour Office and therefore invites the Government to submit to the competent services of the Office concrete proposals for prioritized, collaborative and result-oriented activities in the field of the protection of wages and labour inspection.*

Zambia

Protection of Wages Convention, 1949 (No. 95) (ratification: 1979)

The Committee notes with regret that the Government's report does not contain new information nor does it address the issues raised in previous comments. The Committee has been commenting for several years on the problem of deferred payment of wages in the public sector, especially in local councils. According to some accounts, thousands of council workers continue to experience several months' delay in the payment of their wages while similar difficulties would now reportedly affect a number of private enterprises. Unfortunately, in the absence of reliable data, the Committee is not in a position to evaluate the true nature and scale of the problem nor can it comment on any measures that the Government may have taken to resolve it.

The Committee wishes once again to refer to paragraph 412 of the 2003 General Survey on the protection of wages in which it emphasized that none of the reasons normally advanced by way of excuse, such as the implementation of

structural adjustment or “rationalization” plans, falling profit margins or the weakness of the economic situation, can be accepted as valid pretexts for the failure to ensure the timely and full payment to workers of the wages due for work already performed or services already rendered, as required by *Article 12 of the Convention*. The financial straits of a private enterprise or a public administration may be addressed in many ways, but not by the deferred payment or non-payment of the outstanding wages due to workers. ***The Committee therefore urges the Government to supply in its next report detailed and up to date information as to the total amount of wage debts, the number of employees affected and the time schedule for the settlement of accumulated arrears. Moreover, with reference to the proceedings initiated by the Zambia Local Authorities Workers’ Union against a number of councils, the Committee would be grateful if the Government could transmit copies of any decisions that the High Court may have rendered so far as well as practical information on the implementation of these decisions.***

[The Government is asked to reply in detail to the present comments in 2007.]

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 26** (Argentina, Austria, Bahamas, Barbados, Belgium, Belize, Benin, Burundi, Central African Republic, China, China: Macau Special Administrative Region, Congo, Côte d'Ivoire, Czech Republic, Democratic Republic of the Congo, Dominica, Dominican Republic, Fiji, Gabon, Ghana, Grenada, Guinea-Bissau, Ireland, Jamaica, Republic of Korea, Madagascar, United Kingdom: Montserrat); **Convention No. 94** (Antigua and Barbuda, Bahamas, Belgium, Belize, Cameroon, Cyprus, Denmark, Finland, France: French Polynesia, France: New Caledonia, Grenada, Guyana, Iraq, Israel, Jamaica, United Republic of Tanzania, Uganda); **Convention No. 95** (Algeria, Argentina, Azerbaijan, Bahamas, Barbados, Belgium, Belize, Benin, Bolivia, Botswana, Brazil, Burkina Faso, Cameroon, Chad, Comoros, Côte d'Ivoire, Cuba, Czech Republic, Democratic Republic of the Congo, Dominica, Dominican Republic, Ecuador, France: French Guiana, France: Guadeloupe, France: Réunion, France: St. Pierre and Miquelon, Gabon, Grenada, Guatemala, Guinea, Guyana, Honduras, Hungary, Israel, Madagascar, Sierra Leone, United Kingdom: Montserrat); **Convention No. 99** (Algeria, Australia, Austria, Belgium, Belize, Central African Republic, Côte d'Ivoire, Czech Republic, Djibouti, El Salvador, Gabon, Ireland); **Convention No. 131** (Australia, Azerbaijan, Burkina Faso, Cameroon, Chile, Costa Rica, Cuba, Egypt, El Salvador, France: French Guiana, France: Guadeloupe, France: Martinique, France: Réunion, France: St. Pierre and Miquelon, Guyana, Japan, Republic of Korea, Uruguay, Yemen); **Convention No. 173** (Australia, Austria, Botswana, Burkina Faso, Finland, Zambia).

Working Time

Bolivia

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1973)

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

Article 6, paragraph 1(a), of the Convention. Permanent exceptions – intermittent work. The Committee notes that under section 46 of the General Labour Act of 8 December 1942, the rules on working hours laid down by the Act do not apply to wage earners who engage in discontinuous work. **The Committee requests the Government to indicate the types of work covered by this exception.**

Articles 3 and 6, paragraph 1(b). Additional hours of work. The Committee notes from the information supplied by the Government in its report that the labour inspectorate is not, as the Committee said in its previous comments, authorized by section 50 of the General Labour Act to allow up to two additional hours of work a day under any circumstances. It also notes that in support of that assertion, the Government refers to section 37 of Decree No. 244 of 1943 issuing implementing regulations for the General Labour Act, under which additional hours of work may be authorized only “in unforeseeable circumstances, to the extent necessary to avoid hindrance of the normal running of the establishment and to prevent accidents or carry out unpostponable repairs or adjustments on the machinery or plant”. The Committee notes that the exception in section 37 is covered by the exceptions allowed under *Article 3* of the Convention. However, the Committee also notes that according to the Government's report the internal rules of enterprises specify the hours of work and the circumstances in which additional hours of work may exceptionally be authorized. The Committee accordingly understands that the instances in which additional hours of work may be allowed are not limited to those set forth in section 37 of Decree No. 244. It again recalls that *Article 6, paragraph 1(b)*, of the Convention allows the granting of temporary exceptions to the rules on hours of work only in order to enable establishments to deal with cases of abnormal pressure of work. **While noting the Government's statement that because of the present political and social crisis it is unable to ensure that new labour legislation will be enacted in the near future, but that it will make every effort gradually to amend the existing legislation on an ad hoc basis, the Committee again expresses the hope that the Government will take the necessary steps as soon as possible to give full effect to the Convention on this point. It strongly encourages the Government to contact the International Labour Office, and more particularly its regional office in Lima, in order to set up a specific technical assistance programme able to facilitate its search for solutions.**

Part VI of the report form. The Committee notes the information supplied by the Government on the practical application of the Convention, including the court decisions regarding payment of additional hours of work, copies of which were attached to the report. **The Government is invited to continue to provide such information, more particularly on the construction and manufacturing industries, where, according to the Government, overtime occurs most frequently. For example, the Government might send extracts of inspection reports and, if possible, information on the number and nature of contraventions of the rules on working hours.**

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

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1973)

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

Article 7, paragraph 1(a), of the Convention. Permanent exceptions – intermittent work. The Committee notes that under section 46 of the General Labour Act of 1942, the rules on working hours laid down by the Act do not apply to wage earners who engage in discontinuous work. **The Committee requests the Government to indicate the types of work covered by this exception.**

Article 7, paragraph 2. Additional hours of work. The Committee notes from the information supplied by the Government in its report that the labour inspectorate is not, as the Committee said in its previous comments, authorized by section 50 of the General Labour Act to allow additional hours of work under any circumstances. It also notes that in support of that assertion, the Government refers to section 37 of Decree No. 244 of 1943 issuing implementing regulations for the General Labour Act, under which additional hours of work may be authorized only “in unforeseeable circumstances, to the extent necessary to avoid hindrance of the normal running of the establishment and to prevent accidents or carry out unpostponable repairs or adjustments on the machinery or plant”. The Committee observes that the exception set forth in section 37 is covered by the exceptions allowed in *Article 7, paragraph 2(a)*, of the Convention.

However, the Committee also notes two judgements of the Constitutional Court of Bolivia, attached to the Government's report regarding Convention No. 1 (judgement No. 149 of 26 April 2002, *Maria Lourdes Villegas de Aguirre v. Banco del Estado en Liquidación*, and judgement No. 257 of 10 November 2001, *Humberto Rodríguez v. Ex-Banco del Estado*). In both decisions the Court held that the definition of overtime (*horas extraordinarias*) implied that such work was “out of the ordinary” and performed occasionally. The Court also ruled that it was for employers to prove that they needed to impose overtime and that overtime must be authorized by the labour inspector. The Committee notes that the above decisions make no reference to unforeseeable circumstances, accident prevention or urgent repair of machinery. The Committee accordingly understands that the instances in which additional hours of work may be allowed are not limited to those set forth in section 37 of Decree No. 244.

The Committee points out that *Article 7, paragraph 2*, of the Convention allows the granting of temporary exceptions to rules on working hours (apart from the cases of unforeseeable circumstances, accident prevention or urgent repair of machinery) only in the following cases: in order to prevent the loss of perishable goods or avoid endangering the technical results of the work; in order to allow for special work (stocktaking, preparation of balance sheets, closing of accounts, etc.); or to enable establishments to deal with cases of abnormal pressure of work due to special circumstances. **While noting the Government's statement that because of the present political and social crisis it is unable to ensure that new labour legislation will be enacted in the near future, but that it will make every effort gradually to amend the existing legislation on an ad hoc basis, the**

Committee again expresses the hope that the Government will take the necessary steps as soon as possible to give full effect to the Convention on this point. It strongly encourages the Government to contact the International Labour Office, and more particularly its regional office in Lima, in order to set up a specific technical assistance programme able to facilitate its search for solutions.

Part V of the report form. The Government is invited to continue to provide information on the application of the Convention in practice, including extracts of inspection reports and, if possible, data on the number and nature of breaches of the rules on working hours.

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

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 1** (Ghana, Paraguay); **Convention No. 4** (Cambodia); **Convention No. 14** (Antigua and Barbuda, Chad, Grenada, Kyrgyzstan, Libyan Arab Jamahiriya, Saint Lucia, United Kingdom: Montserrat); **Convention No. 30** (Paraguay); **Convention No. 41** (Afghanistan, Chad, Madagascar); **Convention No. 52** (Comoros, Kyrgyzstan, Paraguay); **Convention No. 89** (Burundi, Libyan Arab Jamahiriya, Paraguay); **Convention No. 101** (Antigua and Barbuda, Burundi); **Convention No. 132** (Chad, Kenya, Madagascar).

Occupational Safety and Health

Introductory remarks

The Committee welcomes the adoption this year of the Promotional Framework for Occupational Safety and Health Convention (No. 187) and Recommendation (No. 197), 2006. This new promotional framework underscores the crucial importance of occupational safety and health for the protection of human lives. It seeks to establish a road map, identifying three key components necessary to progressively achieve improvements in occupational safety and health worldwide, including through increased ratification of relevant related instruments.

The Committee notes, in particular, that Convention No. 187 requires ratifying member States to take into account the principles set out in ILO instruments relevant to Convention No. 187 in their efforts to achieving progressively a safe and healthy working environment. Member States that ratify the Convention are also called upon to consider periodically measures that could be taken to ratify the relevant instruments.

The Committee expresses the hope that this new instrument will effectively contribute to the promotion of a preventative safety and health culture in all countries. It draws particular attention to the definition of “national policy” in Convention No. 187, which refers to “the national policy on occupational safety and health and the working environment developed in accordance with the principles of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155)”. The Committee hopes that member States will give due consideration to the ratification of this new instrument.

Algeria

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1962)

1. The Committee notes the information contained in the Government’s report and the information provided in reply to its previous comments. It notes with interest the adoption of five decrees on health and safety at the workplace, including Executive Decree No. 05-12 of 9 January 2005 concerning specific prescriptions on health and safety applicable to the building, public works and hydraulic sectors. The Committee also notes that the Government has ratified Convention No. 167, registered on 6 June 2006, but that the Government continues to be bound by the present Convention until 6 June 2007. Against this background, the Committee would like to raise the following points:

2. *Articles 7, 8 and 9 of the Convention. General rules as to scaffolds.* The Committee notes that section 22 of the Decree of 8 January 2005 includes a prescription that scaffolds, ladders, platforms, walkways and stairways shall be constructed, assembled and fitted, as appropriate, in such a way as to guarantee “maximum safety in use”, without further details. ***Referring to the specific prescriptions contained in the Convention, the Committee requests the Government to indicate how effect is given to Articles 7, 8 and 9 of the Convention in national legislation or practice, in particular, whether it is intended to prepare further texts specifying the means of implementation of provisions of the Decree, as provided in its section 42.***

3. *Articles 11, 12, 13, 14 and 15. General rules as to hoisting appliances.* The Committee notes that section 22 of the Decree of 8 January 2005 includes, inter alia, a prescription that “hoisting appliances” shall be constructed, assembled and fitted, as appropriate, in such a way as to guarantee “maximum safety in use”, without further details. ***Referring to the specific prescriptions contained in the Convention, the Committee requests the Government to indicate how effect is given to Articles 11 to 15 of the Convention in national legislation or practice, in particular whether it is intended to prepare further texts specifying the means of implementation of provisions of the Decree as laid down in its section 42.***

4. *Article 6 and Part V of the Convention.* Further to its previous comments, the Committee notes that the statistical information on industrial accidents in the building and public works sectors has not been received by the Office. The Committee recalls that, under *Article 6*, each Member which ratifies the Convention undertakes to communicate relevant statistical information. ***The Committee invites the Government to supply it with up to date statistics covering the building industry, including information on the number of workers covered by the legislation, the number and classification of accidents occurring to persons occupied on work within the scope of the Convention, and extracts from inspection reports.***

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1969)

1. The Committee notes the brief information contained in the Government’s report in reply to its comments. It notes in particular the information that a draft executive decree has been initiated and submitted for interministerial consultation. The Government states that this draft is the preliminary stage in accordance with the established procedures and that it reflects all the relevant provisions of the Convention and the Recommendation. ***The Committee hopes that the draft executive decree mentioned above will be adopted in the near future and that it enters into force without delay to give effect to the provisions of the Convention. In the absence of more detailed information, the Committee is bound to recall the following points:***

1. *Article 2, paragraphs 3 and 4, of the Convention.* The Committee recalls that section 8 of Act 88-07 of 26 January 1988 which prohibits the manufacture, exhibition, putting up for sale, sale, import, hire or transfer in any other manner of machinery or

parts of machinery that do not correspond to current national and international health and safety standards does not determine the machinery that is considered to be dangerous, nor the parts thereof which are likely to present danger, in accordance with the requirements of *paragraphs 3 and 4 of Article 2* of the Convention. It recalls that it had noted that the provisions of Executive Decree No. 90-245 of 18 August 1990 applicable to gas pressure machinery and of Executive Decree No. 90-246 of 18 August 1990 applicable to steam pressure machinery, met the requirements of *Article 2* of the Convention, but that similar measures of general application to machinery covered by the Convention as a whole were needed. In this regard the Committee wishes to reiterate its previous comments that the objective of *Article 2* of the Convention is to guarantee that machines are safe before they reach the user, whereas the provisions of Executive Decree No. 91-05 of 19 January 1991 respecting general safety provisions concern the guarding of machinery once it is in use.

The Committee again draws the attention of the Government to paragraphs 73 et seq. of its 1987 General Survey on safety and the working environment where it indicates that it is essential for the effective application of *Part II* of the Convention that national legislation designate those parts of machinery that present danger and require appropriate guarding (paragraph 82) and that, until there has been a determination of the machinery and parts thereof that present danger, the prohibition of the sale, hire, transfer in any other manner and exhibition of machinery contained in *Article 2* of the Convention remains ineffective. The Committee recalls its previous reference to paragraph 85 of the 1987 General Survey to indicate that the definition of dangerous machinery and parts thereof should as a minimum cover all those parts enumerated in *Article 2* of the Convention.

2. *Article 4*. Further to its previous comments, the Committee notes the Government's reply that the responsibility referred to in paragraph 2 of the Committee's previous comments was provided for in section 37 of Act No. 88-07 of 26 January 1988 which prescribed sanctions in cases of violations of sections 8, 10 and 34 of the same Act. The Committee recalls once again that, while section 8 of Act No. 88-07 prohibits the manufacture, exhibition, putting up for sale, sale, import, hire or transfer in any other manner of machinery that is dangerous, with a view to its use, section 10 of the same Act explicitly lays down the responsibilities of only those who are involved in the manufacture, importation, the cession, and use of the machinery and not of the vendor, the person letting out on hire or transferring the machinery in any other manner, or the exhibitor, and their respective agents. The Committee once again refers to paragraphs 164-175 of its 1987 General Survey on safety and the working environment, in which it observes that the general prohibition from manufacturing, selling, hiring or transferring in any other manner machinery which is dangerous is inadequate if it is not accompanied by a provision explicitly requiring these provisions to be applied to the manufacturer, vendor, the person letting out on hire or transferring the machinery in any manner or their respective agents, in order to comply with *Article 4* of the Convention which expressly establishes the responsibility of these persons, and to avoid any ambiguity. ***The Committee urges the Government to take the necessary measures to ensure that the responsibility of the categories of persons mentioned in Article 4 are explicitly established in national legislation as well as the sanctions applicable in case of violation of such explicitly established responsibility.***

3. *Articles 6 and 7*. Further to its previous comments concerning the responsibility of the employer, the Committee notes the Government's reply that section 38 of Act No. 88-07 provides for this. The Committee notes that the provisions of Act No. 88-07, including section 38, do not fully reply to its previous comments that the use of machinery, any parts of which, including the point of operation, is without appropriate guards, is not prohibited. It reiterates its previous indications that sections 40-43 of Executive Decree No. 91-05, while requiring the dangerous parts of machines to be guarded, do not expressly prohibit the use of machines, the dangerous parts of which are not guarded. The Committee refers again to paragraph 180 of its 1987 General Survey on safety and the working environment, where it is stated that *Article 6, paragraph 1*, of the Convention is formulated as a general prohibition to be included in the national legislation and that, in order to observe this provision, it is not enough to require the guarding of machines which are used, without at the same time requiring that the use of machines without appropriate guards is forbidden. The Committee wishes to reiterate the need for the legislation to be clear that the obligation to ensure compliance with this prohibition rests on the employer, in accordance with *Article 7* of the Convention.

2. ***The Committee hopes that the Government will do its utmost to take the necessary measures in the very near future.***

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1969)

1. The Committee notes the information contained in the Government's report, in particular the adoption of Executive Decree No. 05-11 of 8 January 2005 laying down the conditions of establishment, organization and operation of the health and security service and its functions. It notes, however, that the Decree contains no provisions giving effect to the Articles of the Convention which it addressed in previous comments. The Committee is therefore bound to reiterate its previous observation concerning the following points:

1. *Article 14 of the Convention*. The Committee notes the information supplied by the Government on the requisite dimensions of the seats to be made available for workers. It reminds the Government that this Article of the Convention provides that sufficient and suitable seats shall be supplied for workers and that workers shall be given reasonable opportunities of using them. The Committee points out that requirements as to the dimension of the seats do not give effect to *Article 14* of the Convention. Noting, moreover, that according to the Government no new regulations have been adopted, the Committee again recalls that Executive Decree No. 91/05 of 19 January 1991, currently in force, establishing general requirements for protection in the area of occupational safety and health, which lays down arrangements for the application of Act No. 88/07 of 26 January 1998, section 19 of which requires seats to be made available only in changing rooms, does not give effect to *Article 14* of the Convention. ***The Committee accordingly trusts that the Government will take appropriate steps to ensure that sufficient and suitable seats shall be supplied for all workers covered by the Convention and that the workers shall be given reasonable opportunities of using them.***

2. *Article 18*. Further to its previous comments on the application of this Article of the Convention, the Committee notes the general information supplied by the Government to the effect that ear protectors are provided in workplaces where it is difficult to reduce noise at source. The Committee notes that section 16 of Executive Decree No. 91/05 of 19 January 1991 states that, where it is acknowledged that the collective measures of protection against noise provided for in section 15 are impossible to implement, suitable individual protection equipment must be made available to the workers. The Committee further notes that ear muffs are to be provided for this purpose. It requests the Government to indicate which provision requires the workers concerned to be provided with ear muffs. The Committee points out to the Government that *Article 18* of the Convention requires the adoption not only of measures to reduce the harmful effects of noise but also measures to reduce vibrations likely to have harmful

effects on workers. *It accordingly requests the Government to provide additional information on the measures taken or envisaged to reduce vibrations likely to have harmful effects on workers.*

2. *The Committee hopes that the Government will do its utmost to take the necessary measures in the very near future.*

Azerbaijan

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1992)

1. The Committee refers to its previous comments as well as to the letter of 17 October 2003 sent by the ILO to the Ministry of Labour and Social Protection of Population pointing out that the Government's latest report submitted in 2003 does not contain a complete reply to the questions asked in the Committee's previous comments. *In addition to the following questions, the Committee reiterates its request that the Government supply copies of the collective agreements that reportedly give effect to Articles 11, 12 and 13 of the Convention.*

2. *Article 11, paragraph 1, of the Convention. Prohibition to use any machinery without the guards provided being in position.* The Committee recalls that the Government has indicated that effect is given to this Article through sections 218, subsection 7, and 229 of the Labour Code, stipulating that the operation of equipment shall be stopped by the body responsible for state supervision of compliance with labour legislation if it does not meet occupational safety and entails a risk to the worker's health and life. The same applies if this machinery fails to comply with occupational safety standards and regulations and may pose a threat to the employee's health or life. Previously, the Committee noted that these provisions are not sufficiently specific to meet the requirements of the Convention. *The Committee requests the Government to indicate specific measures taken in accordance with the Convention ensuring that workers shall not be required to use any machinery without the guards provided being in position.*

3. *Article 12. Protection of the rights of workers under national social security or social insurance legislation.* *The Committee notes that the Government's reports remain silent on this question and requests the Government to indicate measures ensuring that the rights of workers under national social security or social insurance legislation shall not be affected by the ratification of this Convention.*

4. *Article 13. Application to self-employed workers of the obligations of employers and workers.* The Committee notes that in this context the Government refers to section 208 of the Labour Code which stipulates that occupational safety standards and regulations defined by this Code and other regulations shall apply to all the workplaces where five categories of persons enumerated in this provision work. However, the Committee notes that this section contains no reference to self-employed persons, which, in accordance with this Article, should be covered by the provisions of Part III of the Convention, if and in so far as the competent authority so determines. *The Committee requests the Government to indicate, whether and to what extent, the provisions of Part III of the Convention relating to the obligations of employers and workers apply to self-employed persons.*

[The Government is asked to reply in detail to the present comments in 2007.]

Barbados

Radiation Protection Convention, 1960 (No. 115) (ratification: 1967)

1. The Committee notes the information contained in the Government's report and the reply to its direct request. It notes that, despite comments it has reiterated for several years, the Government's report contains no new information and that, according to the Government's replies, no follow-up has been given to the Committee's comments. The Committee also notes that the Government's report refers to observations submitted by the "Barbados Workers' Union" which requests the Government to reactivate the Advisory Committee on Radiation Protection; to establish legislative measures to afford protection to workers exposed to ionizing radiation, particularly by fixing the maximum admissible radiation exposure doses; to take appropriate measures to prescribe a compulsory medical examination – not merely optional – for workers exposed to radiation; and to provide alternative employment allowing them to maintain their income for persons who can no longer work in zones exposed to radiation. *In view of the above, the Committee is bound to reiterate its observations on the following matters:*

Articles 2 and 4 of the Convention. The Committee noted the Government's indication that the regulatory body to monitor the exposure of workers to ionizing radiation has not been established yet. *It further notes that the ACRP has not yet given directives regarding protective measures to be taken against ionizing radiation, or time limits for the application of such measures. Referring to its introductory comments, the Committee urges the Government to take the appropriate steps to make the ACRP operational and thus creating the framework for the monitoring of workers' exposure to ionizing radiation and the issuing of directives regarding protective measures, which falls, according to the Committee's understanding, in the area of competence of the ACRP.*

Articles 3 and 6. With regard to the fixing of maximum permissible doses of ionizing radiation, necessary in order to comply with the requirement to ensure effective protection of workers in the light of "knowledge available at the time" and in the light of "current knowledge", the Committee noted from the Government's report that the radiation protection officer, being a hospital physician and the chairperson of the ACRP, is well aware of the recent revised dose limits of the International Commission on Radiological Protection (ICRP). In this regard, the Government indicates that reports on the doses of ionizing radiation received by workers show that the limits recommended by the ICRP were not exceeded. However, in particular cases

recorded for cardiac catheterization doctors and one radiologist, the dose of radiation absorbed was beyond this limitation, which subsequently has been brought to their attention. ***The Committee, noting that the observance of the dose limits for ionizing radiation, as recommended by the ICRP in 1990, do not seem to set a problem to the Government in practice, requests therefore the Government to reconsider the possibility to fix maximum permissible dose levels of ionizing radiations with legally binding effect in order to guarantee by means of enforceable provisions an effective protection of workers exposed to ionizing radiations, in accordance with Articles 3 and 6 of the Convention.***

Article 5. With regard to the installation of a computerized system, type "Selectron HDR", in 1990 which reduces the number of workers dealing with radiation sources to an extent that the probable exposure to radiation would turn to zero, the Committee noted the Government's indication that this system is used in the treatment of cancer of the uterine cervix and related problems. However, its use in other medical disciplines has to be planned since logistical problems regarding the necessary equipment and the movement of staff working in related disciplines need to be resolved. ***The Committee hopes that the Government will take the necessary action to enable the use of the "Selectron HDR" system in all medical disciplines where appropriate in order to restrict the exposure of workers to the lowest practicable level and to avoid any unnecessary exposure of workers. The Committee requests the Government to supply information on experiences already collected in applying the system in the field of the treatment of cancer of the uterine cervix.***

Article 7. The Committee noted the Government's indication that no legislation is in place to set a lower limit on the age of radiation workers. However, since it is a very fundamental issue, it is hoped that it will appear in the amended Radiation Act. In the meantime it belongs to the radiation protection officer's tasks to ensure that adequate structural shielding in place is provided, such as area monitoring, warning lights or alarm where appropriate and that only qualified workers are employed to operate machines producing radiation. In this respect, the Committee notes again the Government's indication provided with its 1998 report to the effect that the minimum age for engagement in radiation work was 16. ***Recalling the provision of Article 7, paragraph 2, of the Convention which provides for a minimum age of 16 to become engaged in work involving ionizing radiation, the Committee requests again the Government to specify the legal basis providing for the prohibition to engage young persons under 16 years of age in work involving exposure to ionizing radiations.*** Moreover, the Committee recalls the provision of Article 7, paragraph 1(a), of the Convention, providing for the fixation of appropriate levels of exposure to ionizing radiations for workers who are directly engaged in radiation work and are aged 18 and over. ***The Committee therefore asks the Government once again to indicate the measures taken or contemplated in order to fix appropriate levels for this group of workers. Since the Committee understands from the Government's indication that an amendment of the Radiation Act is intended, it would invite the Government to consider the possibility to incorporate such appropriate levels in the amendment of the above Act.***

Article 8. With regard to dose limits to be set for workers not directly engaged in radiation work, the Government indicated that the reports on radiation received by these workers show either negligible or zero doses. While the Committee noted this information with interest, it nevertheless wishes to point out that Article 8 of the Convention obliges every ratifying State to fix appropriate levels of exposure to ionizing radiations for this category of workers, in accordance with Article 6, read together with Article 3, paragraph 1, of the Convention, that is in the light of knowledge available at the time. In this respect, the Committee would draw the Government's attention to paragraph 14 of its 1992 general observation under the Convention as well as to section 5.4.5 of the ILO code of practice on the radiation protection of workers (ionizing radiations) of 1986, explaining that the employer has the same obligations towards workers not engaged in radiation work, as far as restricting their radiation exposure is concerned, as if they were members of the public with respect to sources of practices under the employer's control. The annual dose limits should be those applied to individual members of the public. According to the 1990 ICRP Recommendations, the annual dose limit for members of the public is 1 mSv. ***The Committee therefore asks the Government to indicate the measures envisaged to fulfil its obligation under this Article of the Convention.***

Article 9. The Committee noted the information supplied with the Government's report on the functions of the alarm systems used in those units at hospitals where radiation treatment is carried out. It also notes the existence of appropriate warning signs fixed on the doors to indicate the presence of hazards arising from ionizing radiations. However, with regard to adequate instructions of workers directly engaged in radiation work, the Committee calls again the Government's attention to section 2.4 of the 1986 ILO code of practice on the radiation protection of workers (ionizing radiations) which contains general principles for informing, instructing and training of workers. ***The Government is requested to indicate the measures taken or envisaged to ensure that workers are adequately instructed in the precautions to be taken for their protection in conformity with Article 9, paragraph 2, of the Convention.***

Article 11. The Committee noted the Government's indication to the effect that the workers designated to perform radiation work are presently monitored by TLD radiation monitoring badges supplied by the universities of the West Indies. ***The Committee requests the Government to explain more in detail the characteristics of this specific monitoring and the manner in which it is carried out.***

Article 12. With regard to appropriate medical examination of workers directly engaged in radiation work, the Government indicated that a medical examination is still a prerequisite for an appointment to the public service. In addition, all workers assuming duties at the hospital are tested subsequently after they have taken up their work on a voluntary basis. In this respect, the Committee wishes to underline that subsequent medical examinations of workers directly engaged in radiation work have to be carried out on a mandatory basis and thus cannot be left to the discretion of the workers concerned whether or not they want to undergo a medical examination once they have been employed. ***The Government is accordingly requested to indicate the measures taken or envisaged ensuring that all workers engaged in radiation work are obliged to undergo appropriate medical examinations, not only prior to their employment, but also subsequently at appropriate intervals.***

Article 13. With regard to the measures to be taken in emergency situations, the Government indicated that no such measures are in place yet, but that it is hoped that the development of emergency plans will be one of the tasks of the proposed regulatory body. In this respect, the Committee states that the ACRP is responsible, inter alia, to prepare a detailed radiation protection programme for Barbados (point (3) of the Advisory Committee on Radiation Protection – Terms of reference). The Committee thinks that the preparation of measures to be taken in emergency situations would form an integral part of its task. The Committee therefore hopes that the ACRP will resume its functions in the near future and that it will, within the framework of its duties, elaborate plans for emergency situations. ***To this effect, the Committee invites the Government again to refer to its 1987 general observation under the Convention as well as to paragraphs 16 to 27 of its 1992 general observation under the Convention concerning occupational exposure during and after an emergency which intend to give guidance regarding the measures to be taken in emergency situations. The Committee hopes that the Government will report on any progress made in this respect.***

Article 14. In absence of any additional information regarding alternative employment of workers with premature accumulation of their lifetime dose, the Committee requests once again the Government to indicate whether and, if so, under which provisions, it is ensured that a worker who is medically advised to avoid exposure to ionizing radiations is not assigned to work involving such exposure, or is transferred to another suitable employment if he or she has already been assigned.

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

Bolivia

Benzene Convention, 1971 (No. 136) (ratification: 1977)

1. The Committee notes the information contained in the Government's report according to which the Environmental Directorate of the Ministry of Hydrocarbons is a government body responsible for ensuring the adoption of measures to prevent the risk of exposure to benzene. It also notes the adoption of Supreme Decree No. 26171 of 4 May 2001, supplementing the Environmental Regulations for the hydrocarbon sector issued by Supreme Decree No. 24335 of 19 July 1996. The Committee notes that the new Decree covers activities and factors liable to affect the environment in general, that is to contaminate the air, water in all its states, soil and subsoil, in excess of the permissible limits established, but that it does not contain measures respecting the protection of workers against risks of poisoning deriving from their exposure to benzene. The Committee notes that this report does not contain sufficient information in reply to its previous comments and recalls that from its first comments in the 1980s the Committee has been drawing the Government's attention to the necessity to adopt measures to give effect to many substantive provisions of the Convention, in accordance with *Article 14 of the Convention*. ***The Committee notes that such measures have not been adopted and urges the Government to ensure that they are adopted in the near future by the competent authorities, including the government body referred to above, in relation to the following provisions of the Convention: Article 1(b) (adoption of protective measures in relation to products the benzene content of which exceeds 1 per cent by volume); Article 2 (use of harmless or less harmful substitute products); Article 4, paragraphs 1 and 2 (prohibition of the use of benzene and products containing benzene as a solvent or diluent in certain work processes, except where the process is carried out in an enclosed system or where there are other equally safe methods of work); Article 6, paragraphs 1, 2 and 3 (measures taken to prevent the exposure of workers to benzene; to ensure that, in any case, workers are not exposed to a concentration of benzene in the air exceeding a ceiling value of 25 parts per million; and to issue directions on carrying out the measurement of the concentration of benzene in the air of places of work); Article 7, paragraph 1 (the carrying out of work processes involving the use of benzene or of products containing benzene in an enclosed system); and Article 11, paragraphs 1 and 2 (prohibition to employ pregnant women, nursing mothers and young persons under 18 years of age in work processes involving exposure to benzene or products containing benzene).***

2. *Article 9. Pre-employment and subsequent medical examinations.* The Committee refers to its previous comments concerning draft regulations respecting medical services covering, among other matters, the need to perform medical examinations prior to employment and during and after employment. ***As its latest report does not contain information in this respect, the Committee requests the Government to indicate in its next report whether, in the meantime, the above regulations respecting medical services have been adopted and, if so, it requests the Government to indicate whether the provisions contained in the draft regulations have been established in such a manner as to ensure that medical examinations are carried out taking into account this Article of the Convention. The Committee also requests the Government to provide a copy of the above text.***

[The Government is asked to reply in detail to the present comments in 2007.]

Brazil

Radiation Protection Convention, 1960 (No. 115) (ratification: 1966)

1. The Committee notes that the Government's report has not been received. It further notes that it has been commenting since 2001 on the following matters: dose limits for non-radiation workers, the measures envisaged to limit exceptional exposure of workers in emergency situations and on the necessary measures taken or envisaged to ensure that alternative employment is offered to workers who have been exposed to an accumulated higher dose of ionizing radiation that can endanger their health. ***While noting that the standards of the National Committee on Nuclear Energy (CNEN) NE 3.01 – Basic Guidelines concerning Radiation Protection – has been revised in January 2005, the Committee hopes that the next report will include full information on the matters raised in its previous direct request, which read as follows:***

Article 8 of the Convention. The Committee recalls that in its previous direct request the Committee had noted the following:

According to the definition of the terms “member of the public” and “(radiation) worker” given in Chapter 3, Nos. 35 and 64 of Standard 3.01/88 of the National Committee on Nuclear Energy (CNEN), it would appear that workers not occupationally exposed to radiation are assimilated to members of the public (for whom the maximum recommended dose is currently 1 mSv) only “when absent from the restricted areas of the installation” but, as soon as they pass through such areas, they come under the definition of radiation workers and could therefore, as a consequence of their work at the service of the installation, receive annual doses above the limits established by the standard for members of the public.

The Committee notes that the Government indicates in its last report that the rules laid down by the CNEN define the limits and conditions for persons exposed to radiation and for members of the public. It also indicates that there is an error of terminology, since any persons who work in units where nuclear energy is used for any purpose and may be exposed to radiation are also considered as members of the public. Therefore, labour inspectors will consider as workers anyone who may be exposed to radiation. According to the Government, this is a plus for safety given that the limits for persons exposed to radiation may be lower. The Government concludes by considering that what is necessary is to reduce the limits further, and this is in the process of being negotiated.

Hoping that the problems arising from any terminological errors can be solved, the Committee recalls the following:

Under this Article of the Convention, appropriate levels must be fixed for workers who are not directly engaged in radiation work but who remain or pass where they may be exposed to ionizing radiation or radioactive substances. The Committee refers to paragraph 14 of its 1992 general observation under the Convention and paragraph II-8 of the International Basic Safety Standards for Protection against Ionizing Radiation, which establish that workers exposed to radiation from sources not directly linked to their work or essential to their work shall have the same level of protection as if they were members of the public.

The Committee asks the Government once again to indicate the measures taken or envisaged to ensure that the workers covered by Article 8 of the Convention may not be exposed to radiation levels of over 1 mSv per year.

2. *Emergency exposure.* In its previous comments, the Committee pointed out that the definition of “emergency exposure” given in Chapter 3, No. 20 (of CNEN-NE Standard 3.01/88) and the corresponding rules in Guideline 5.2.4 should be reviewed. The definition given in Chapter 3, No. 20, covers exposure deliberately incurred during emergency situations, not only for saving lives or preventing an escalation of accidents which may cause deaths, but also for “saving an installation of vital importance for the country”. The Committee notes the Government’s statement that the maximum dose established in Guideline 5.2.4.3 is to be reviewed during the forthcoming general review of the standards to bring them into conformity with the latest recommendations of the ICRP. It also notes that the Government considers that nuclear power plants are among the installations which are of vital importance for the country. ***The Committee refers to paragraph 35(d) of its 1992 general observation under the Convention and paragraphs V.27.–V.32. of the 1994 International Basic Safety Standards and again asks the Government to indicate the measures taken or envisaged to limit exceptional exposure of workers to what is required to cope with an acute danger to life and health. The Government is also asked to provide information on the arrangements made or envisaged to optimize the protection of workers against accidents and during emergencies, particularly with regard to the design and protective features of the workplace and equipment and the development of techniques, which would avoid the exposure of persons to ionizing radiation.***

In recalling the foregoing, the Committee observes that the Government restricts itself to pointing out in its last report that the revision of the national standard depends on the CNEN accepting the Ministry’s proposal. ***The Committee asks the Government to provide information in its next report on the progress made in this regard.***

3. *Provision of alternative employment.* The Committee noted that an interministerial committee would shortly examine the issue of alternative employment for workers who have been exposed to radiation doses that endanger their health. The Committee requested the Government to indicate the measures taken or envisaged, in order to ensure effective protection of workers, to provide alternative employment to workers who have accumulated exposure beyond which an unacceptable risk of detriment is to occur.

The Committee notes the Government’s indication that no requests for alternative employment have been made arising from situations involving exposure to radiation doses that are dangerous to health. The Committee considers that, irrespective of the situation, the Government should adopt the necessary measures to ensure that alternative employment is offered to workers who have been exposed to an accumulated higher dose of ionizing radiation that thus can endanger their health. ***The Committee asks the Government to provide information on the measures adopted to this end.***

2. *Part V of the report form.* ***Further to its previous comments, the Committee would be grateful if the Government would make an effort to collect and communicate in its next report concrete information on the effect given to the Convention in practice, including, for instance, extracts from official reports or studies related to radiation protection, surveys, policy papers or other similar documents issued by the CNEN, statistics on the number of workers covered by relevant legislation, information on whether collective agreements which would establish new conditions of work in the nuclear energy industry had been concluded and, if so, to send copies to the Office, data on inspection visits and the results obtained in matters covered by the Convention, etc.***

3. ***The Committee urges the Government to make every effort to take the necessary action in the near future.***

[The Government is asked to reply in detail to the present comments in 2007.]

Bulgaria

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) ***(ratification: 1965)***

1. The Committee notes the information contained in the Government’s report and particularly on the inspections carried out between 2002 and 2004 by the Executive Agency General Labour Inspection.

2. *Article 6, paragraph 2, of the Convention.* *Establishment of a system of sufficiently dissuasive penalties.* The Committee notes the reply by the Government to its previous direct request according to which it is taking into account the comments made by the Committee concerning the need to establish sufficiently dissuasive penalties for violations of the legislation respecting occupational safety and health. The Committee notes that the highest number of violations concern occupational safety and health standards (75 per cent of all violations reported). Despite the very high number of contraventions, the Committee notes that the Government has not provided any information on adequate penalties to ensure the proper application of the legislation. In this respect, the Committee recalls that measures can only be effective

when the penalties involved are sufficiently dissuasive, for example, by imposing very heavy fines on those responsible for violations. ***The Committee requests the Government to take the necessary measures for the establishment of a system of penalties which will have a preventive, dissuasive and effective impact against violations of the legislation giving effect to the Convention.***

Burundi

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1963)

1. The Committee notes the information contained in the Government's report and the statistical data. It notes with regret that, despite the comments it has been making for a number of years, the legislation to apply the Convention has not been changed.

2. *Article 4 of the Convention. Inspection system.* Further to its previous comments, the Committee notes from the information provided that the Government will explore possibilities for training labour inspectors to monitor safety prescriptions in the building sector. The Government nevertheless points out in its report that managers in charge of occupational risk prevention at the National Social Security Institute (INSS) are qualified to carry out inspections in the building sector and that they give useful instructions to the employers concerned. ***The Committee requests the Government to provide information in its next report on the practical application of this provision of the Convention.***

3. *Articles 6 to 15.* With reference to its previous comments, the Committee notes that, according to the Government, the legislation governing occupational safety has not been repealed and that Rwanda-Urundi (ORU) Ordinance No. 21/94 of 24 July 1953 establishing the legal framework for occupational safety in the building industry has not been revoked, and that the Government is envisaging its redissemination. ***The Committee requests the Government to provide clarification on the legislation in force to enable it to assess how the Convention is applied in Burundi.***

4. *Part V of the report form.* Further to its previous comments, the Committee notes the statistical data in the Government's report showing trends in the number of active workers and the numbers receiving occupational risk benefits between 2000 and 2004, and the distribution of enterprises according to size and branch of economic activity at 31 December 2004. ***The Committee requests the Government to provide further information in its next report regarding trends in accidents in the building industry, together with any other relevant information allowing the Committee to assess how the safety standards established in the Convention are applied in practice.***

5. *Revision of the Convention.* The Committee draws the Government's attention to the Safety and Health in Construction Convention, 1988 (No. 167), which revises Convention No. 62 of 1937 and could well be better adapted to the current situation in the building sector. It again points out that the ILO Governing Body invited States parties to Convention No. 62 to envisage the ratification of Convention No. 167, which entails, *ipso jure*, immediate denunciation of Convention No. 62 (GB.268/8/2). ***The Committee requests the Government to provide information on any action taken on this suggestion.***

Cameroon

Asbestos Convention, 1986 (No. 162) (ratification: 1989)

1. The Committee notes that, although the Government's report has not been received, the Government has transmitted observations of the General Union of Cameroon Workers in which the trade union notes that, although asbestos was not produced in the country, asbestos had been used to create firewalls in certain buildings and there was a general unawareness of the dangers related thereto.

2. ***The Committee urges the Government to respond to its previous comments and to the new observations from the General Union of Cameroon Workers and invites the Government to follow up on its request for technical assistance from the ILO on measures to take to ensure application of the Convention in the country. In the meantime, the Committee must repeat its previous comments, which read as follows:***

1. The Committee notes the information contained in the Government's report. It notes in particular that the Government has just requested assistance of various kinds from the ILO so that it can ensure that the Convention is applied. The Committee also notes the observations of the General Confederation of Labour-Liberté (CGT-Liberté) on the amendment of the schedule of occupational diseases.

2. The Committee notes the Government's indication that it is experiencing difficulties in applying the Convention, in particular owing to the low level of economic development. The Committee notes, however, that the report contains no information in response to the matters raised by the Committee concerning the application of the Convention. ***It is therefore bound once again to draw the Government's attention to the subjects for which, in accordance with Article 3, paragraph 1, of the Convention, national laws and regulations must prescribe measures to give effect to the Convention:***

- employers' responsibility for compliance with the prescribed measures (*Article 6, paragraph 1*);
- adoption by the competent authority of general procedures for cooperation between employers undertaking activities simultaneously at one workplace (*Article 6, paragraph 2*);
- preparation by employers, in cooperation with the occupational safety and health services, of procedures for dealing with emergency situations (*Article 6, paragraph 3*);
- compliance by workers, within the limits of their responsibility, with prescribed safety and hygiene procedures (*Article 7*);

- close cooperation between employers and workers or their representatives in applying the measures prescribed (*Article 8*);
- prevention or control of exposure to asbestos by subjecting work in which exposure to asbestos may occur to adequate engineering controls and work practices (*Article 9(a)*);
- adoption of special rules and procedures, including authorization, for the use of asbestos (*Article 9(b)*);
- replacement of asbestos or of certain types of asbestos or products containing asbestos by other materials or products or the use of alternative technology, scientifically evaluated as harmless or less harmful, whenever this is possible (*Article 10(a)*);
- total or partial prohibition of the use of asbestos or of certain types of asbestos or products containing asbestos in certain work processes (*Article 10(b)*);
- prohibition of the use of crocidolite or products containing this fibre (*Article 11, paragraph 1*);
- prohibition of the spraying of asbestos (*Article 12, paragraph 1*);
- notification of work involving exposure to asbestos (*Article 13*);
- adequate labelling of containers and products containing asbestos (*Article 14*);
- determination by the competent authority of limits for the exposure of workers to asbestos (*Article 15, paragraph 1*);
- periodical review of exposure limits in the light of technological progress and advances in technological and scientific knowledge (*Article 15, paragraph 2*);
- adoption of appropriate measures to prevent or control the release of asbestos dust into the air, to ensure that the exposure limits or other exposure criteria are complied with (*Article 15, paragraph 3*);
- provision by the employer of adequate respiratory protective equipment and special protective clothing where collective technical prevention measures are inadequate (*Article 15, paragraph 4*);
- adoption of practical measures by the employer for the prevention and control of the exposure of workers to asbestos and for their protection against hazards due to asbestos (*Article 16*);
- demolition of plants or structures containing friable asbestos materials solely by employers and contractors who are recognized as qualified by the competent authority (*Article 17, paragraph 1*);
- preparation by the employer or contractor of a work plan specifying the measures to be taken before starting demolition work (*Article 17, paragraph 2*);
- consultation of workers or their representatives on the demolition work plan (*Article 17, paragraph 3*);
- provision of appropriate work clothing, not to be worn outside the workplace, where workers' personal clothing may become contaminated (*Article 18, paragraph 1*);
- cleaning of work clothing and special protective clothing carried out under controlled conditions to prevent the release of asbestos dust (*Article 18, paragraph 2*);
- prohibition of the taking home of work clothing and special protective clothing and of personal protective equipment (*Article 18, paragraph 3*);
- provision of facilities for workers exposed to asbestos to wash, take a bath or shower at the workplace (*Article 18, paragraph 5*);
- disposal of waste containing asbestos in a manner that does not pose a health risk to the workers concerned or to the population in the vicinity of the enterprise (*Article 19, paragraph 1*);
- adoption by the competent authority and employers of appropriate measures to prevent pollution of the general environment by asbestos dust released from the workplace (*Article 19, paragraph 2*);
- measurement by the employer of concentrations of airborne asbestos dust in workplaces (*Article 20, paragraph 1*);
- determination of a period during which records of the monitoring of the working environment and of the exposure of workers to asbestos must be kept (*Article 20, paragraph 2*);
- access to the above records for workers (*Article 20, paragraph 3*);
- right of workers to request the monitoring of the working environment and to appeal to the competent authority concerning the results of the monitoring (*Article 20, paragraph 4*);
- medical examination of workers (*Article 21, paragraph 1*);
- monitoring of workers' health to be free of charge (*Article 21, paragraph 2*);
- workers to be informed of the results of their medical examinations and to receive individual advice concerning their health in relation to their work (*Article 21, paragraph 3*);
- means of maintaining their income to be given to workers unable, for medical reasons, to continue to do work involving exposure to asbestos (*Article 21, paragraph 4*);
- development by the competent authority of a system of notification of occupational diseases caused by asbestos (*Article 21, paragraph 5*);
- dissemination of information and the education of all concerned regarding health hazards due to exposure to asbestos (*Article 22, paragraph 1*);
- establishment by employers of written policies and procedures on measures for the education and periodic training of workers on asbestos hazards (*Article 22, paragraph 2*); and
- information and instruction of workers by employers regarding health hazards related to their work and preventive measures and correct work practices (*Article 22, paragraph 3*).

3. *The Committee hopes that the most representative organizations of employers and workers concerned will be consulted, in accordance with Article 4 of the Convention, when the necessary measures are taken to give effect to the Convention, and that the enforcement of the laws and regulations adopted as a result will be secured by an adequate and appropriate system of inspection, in accordance with Article 5 of the Convention.* Furthermore, in the interests of proper application of the Convention, the Committee wishes to remind the Government that *Article 2* of the Convention defines the

terms “asbestos”, “asbestos dust”, “airborne asbestos dust”, “respirable asbestos fibres” and “exposure to asbestos”, and the terms “workers” and “workers’ representatives”, and that it would be advisable to include these definitions in the national legislation.

4. The Committee also notes section 96 of the Labour Code under which, where working conditions not covered by the orders provided for in section 95 of the Labour Code are deemed to be dangerous for the safety and health of workers, the labour inspector or the works’ medical inspector shall report the said conditions to the National Occupational Safety and Health Commission with a view to appropriate regulations being prepared if necessary. *The Committee asks the Government to indicate whether any labour inspectors or works’ medical inspectors have initiated such a process in connection with hazards related to exposure to asbestos and, if so, to provide information on any resulting legal texts.*

5. *Article 19. Disposal of waste.* In earlier comments the Committee asked the Government to provide copies of any decrees adopted pursuant to section 3 of Act No. 89/027 of 29 December 1989 on toxic and hazardous wastes, which provides that arrangements for the elimination of such wastes are to be set by decree. *It hopes that the Government will send copies of any such decrees with its next report.*

Chile

Maximum Weight Convention, 1967 (No. 127) (ratification: 1972)

1. The Committee notes the information contained in the Government’s report. It notes with satisfaction the adoption of Act No. 20001 of 28 January 2005 on the maximum human load weight and Supreme Decree No. 63, July 2005, of the Ministry of Labour and Social Welfare, regulating the application of the Act. It notes that these texts give full effect to *Article 3* (maximum weight to be transported manually by a worker), *Article 6* (suitable technical devices to facilitate the transport of loads), *Article 7* (assignment of women and young workers under 18 years of age) of the *Convention*, and also take into account the provisions of the Maximum Weight Recommendation, 1967 (No. 128).

Cuba

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1980)

1. The Committee notes the information contained in the Government’s report.

2. *Part IV of the report form. Application of the Convention in practice.* The Committee notes with interest the Government’s reference to the activities of the National Occupational Safety and Health Group, which was established to ensure the application in practice of national legislative provisions and is made up of representatives of the central administration of the State, national trade unions, heads of provincial occupational health programmes of the Ministry of Public Health, and occupational safety subdirectors from provincial labour directorates. The Government indicates in its report that the objectives of this Group are as follows: to assess the occupational safety and health situation and provide guidance in respect of the policies and actions to be adopted by bodies and provinces in order to contribute to reducing cases of occupational accidents and work-related deaths; to strengthen the Protected Areas Movement (*Movimiento de Areas Protegidas*), as a basis for mass movements to improve working conditions, reduce accidents, fires and occupational illnesses and create a culture of occupational safety and health; and to strengthen communication-related work, by stepping up the activities of the public welfare campaign on occupational safety and health, and through activities relating to the National Occupational Safety and Health Day. The Committee notes the statistical information on occupational illnesses diagnosed in the country in 2003 and 2004, which shows a general reduction in the number of cases of illnesses, yet an increase in some of them. *The Committee asks the Government to continue providing information on the application of the Convention in practice and to send, with its next report, extracts from inspection service reports and information indicating the number of workers covered by the measures adopted to apply the Convention, and the number and nature of the violations that have been reported.*

Cyprus

Asbestos Convention, 1986 (No. 162) (ratification: 1992)

1. The Committee notes the information contained in the Government’s report and the attached legislation. With reference to its previous comments, the Committee notes with satisfaction that the previously mentioned proposed amendments to the Asbestos (Safety and Health at Work) Law (No. 47 of 2000) have been adopted, ensuring application of *Articles 12, 15(4), 17(3), 20(1) and (2) and 20(3) and (4) of the Convention.*

2. The Committee is raising certain other points in a request addressed directly to the Government.

Democratic Republic of the Congo

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1967)

1. 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 contained in the Government's report. It recalls with regret that for over 30 years it has been requesting the Government to take the necessary measures to give effect to the provisions of *Articles 2 to 4 of the Convention*. In its last report, the Government indicates that Ministerial Order No. 0057/71 of 20 December 1971, issuing regulations respecting safety at the workplace, gives effect to the provisions of the Convention. However, this text, which was provided by the Government in 1973, has already been examined by the Committee. It concluded that this Ministerial Order only partially gave effect to the provisions of the Convention and, since 1974, it has been requesting the adoption of a text setting forth the prohibition, as required by the Convention, of the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards.

The Committee notes that the Government refers in its report to a new draft Labour Code containing provisions prohibiting the sale, hire, exhibition or transfer in any other manner of machinery of which the dangerous parts are without appropriate guards, accompanied by provisions setting forth penalties. It also notes that the procedures for dealing with violations of this prohibition are to be determined by order. In its previous reports, the Government has referred on several occasions to a draft order respecting the guarding of machinery and to the revision of the Labour Code, in the context of which provisions designed to give effect to the above Articles of the Convention were to be adopted. The Committee understands that the new draft Labour Code is the result of the revision which was previously envisaged and confirmed by Government representatives during the ILO's technical advisory mission in 1997.

2. The Committee recalls that it has for over 30 years been requesting the Government to take the necessary measures to give effect to the provisions of Articles 2 to 4 of the Convention, that almost ten years have passed since the technical advisory mission of the ILO which took place in 1997 and that the draft Labour Code and Order which, according to the Government, contains provisions prohibiting the sale, hire, exhibition or transfer in any other matter of machinery of which the dangerous parts are without appropriate guards, accompanied by provisions setting forth penalties, has still not been adopted. ***Against this background, the Committee invites the Government to seek further technical assistance from the ILO to resolve any remaining obstacles giving effect to the Convention in the country and hopes that the Government will make every effort to take the necessary action in the very near future.***

[The Government is asked to supply full particulars to the Conference at its 96th Session and to reply in detail to the present comments in 2007.]

Djibouti

Radiation Protection Convention, 1960 (No. 115) (ratification: 1978)

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 comments it has been making for several years, the Committee notes that the Government's report does not contain any new element in response to its previous comments. The Committee is therefore bound to reiterate its comments, which concerned the following points.

1. The Committee notes the Government's indication that the work undertaken to bring the Labour Code and texts for its application up to date is not finished and, therefore, it is not possible to indicate the measures taken in the light of current knowledge as called for in *Article 3, paragraph 1*, of the Convention. In this regard, the Committee would recall that, under *Article 3, paragraph 1*, and *Article 6, paragraph 2*, all appropriate steps shall be taken to ensure effective protection of workers against ionizing radiations and to review maximum permissible doses of ionizing radiations in the light of current knowledge. Referring to its 1992 general observation under this Convention, the Committee would draw the Government's attention to the revised dose limits for exposure to ionizing radiation established on the basis of new physiological findings by the International Commission on Radiological Protection (ICRP) in its 1990 recommendations. ***The Government is requested to indicate, in its next report, the steps taken or being considered in relation to the matters raised in the conclusions to the general observation.***

2. *Article 7, paragraphs 1(b) and 2 of the Convention*. In its previous comments, the Committee had noted that there were no provisions in Order No. 1010/SG/CG of 3 July 1968 concerning the protection of workers against ionizing radiation in hospitals and health-care institutions, or in Order No. 72-60/SG/CG of 12 January 1972 on occupational medicine, prohibiting the employment of children under 16 years of age in radiation work and fixing maximum permissible doses for persons between 16 and 18 who are directly engaged in radiation work, as called for by this Article of the Convention. It notes the Government's indication that, since the revision of the Labour Code and the texts for its application is not finished, no measures have been taken in this regard. ***The Committee once again expresses the hope that the Government will take the necessary measures to ensure the application of this Article in the near future and requests the Government to indicate, in its next report, the progress made in this regard.***

3. The Committee notes with regret that the information provided in the Government's report contains no reply to the general observation of 1987. The Committee would now call the Government's attention to paragraphs 16 to 17 of its 1992 general observation under this Convention which concern the occupational exposure during and after an emergency. ***The Government is requested to indicate whether, in emergency situations, exceptions are permitted to the normally tolerated dose limits for exposure to ionizing radiation and, if so, to indicate the exceptional levels of exposure allowed in these circumstances and to specify the manner in which these circumstances are defined.***

2. ***The Committee trusts that the Government's next report will contain information on measures taken giving full effect to the Convention with due account given to the Committee's general observations of 1992, including reference to the 1990 recommendations of the International Commission on Radiological Protection (ICRP).***

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1978)

1. 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 the Government's report contains no reply to its previous comments.

With reference to the comments it has been making for many years, the Committee notes the Government's statement that the necessary measures will be taken in the general context of the next revision of labour laws and regulations which it wishes to undertake with ILO assistance as soon as conditions allow the organization of tripartite consultations, in order to give effect to the Convention. The Committee hopes that the Government will undertake as soon as possible the necessary measures to comply fully with *Articles 10, 11, 13, 14, 15, 16, 18 and 19 of the Convention. It requests the Government to provide detailed information on any progress made in this respect.*

2. *The Committee trusts that the Government's next report will contain information on the adoption of provisions giving full effect to the Convention.*

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

Ecuador

Benzene Convention, 1971 (No. 136) (ratification: 1975)

1. The Committee notes the information contained in the Government's report on the creation of a Centre for Technological Support to Industry (CATI). This is an Instituto Ecuatoriano de Normalización (INEN) programme that provides technological support to industry through specialized laboratories and specific testing for products, materials and metrology to enable enterprises to obtain quality certification for products and improve the quality of processes and products with a view to becoming more competitive. It also notes that the abovementioned Centre has drawn up a programme for the development of industrial quality certification and control laboratories.

2. *Article 5 of the Convention. Occupational hygiene and technical measures to ensure effective protection of workers exposed to benzene.* The Committee notes that, in 2005, the Ministry of Labour and Employment approved the Occupational Safety and Health Institutional Policy and the Safety and Health Management System of the Ministry of Labour by means of Ministerial Order No. 000213 of 23 October 2002, which sets out the principles and objectives of the policy, as well as strategies and measures for the development of national law and practice to ensure effective implementation of its terms of reference. *The Committee hopes that these strategies will be implemented in the very near future and requests the Government to provide information on progress in this matter.*

3. The Committee notes that adoption of the draft regulations on the use of benzene has been delayed and that, as a consequence of this, the technical standards are now to be updated by the Inter-Institutional Committee and then sent to the tripartite National Labour Council so that it can acquaint itself with this vitally important matter and speed up adoption. *The Committee hopes that the abovementioned draft regulations will be adopted in the near future and will give full effect to the provisions of the Convention, and especially:*

- *Article 2, paragraph 1.* Use of substitute products, where they are available, instead of benzene or products containing benzene;
- *Article 4, paragraphs 1 and 2.* Prohibition of the use of benzene or products containing benzene in certain processes, at least as a solvent or diluent, except where the process is carried out in an enclosed system or where there are other equally safe methods of work;
- *Article 5.* Occupational hygiene and technical measures to ensure effective protection of workers exposed to benzene;
- *Article 6, paragraphs 1, 2 and 3.* Measures to prevent the escape of benzene vapour into the air of places of employment; measures to ensure that the concentration of benzene in the air of places of employment does not exceed a ceiling which shall be fixed by the competent authority at a level not exceeding 25 parts per million, and the establishment of appropriate standards for measuring the concentration of benzene in the air;
- *Article 7, paragraphs 1 and 2.* Work processes involving the use of benzene or of products containing benzene to be carried out, as far as possible, in an enclosed system or, where this is not practicable, places of work to be equipped with effective means to ensure the removal of benzene vapour;
- *Article 8, paragraphs 1 and 2.* Adequate means of personal protection against the risk of absorbing benzene through the skin or of inhaling benzene vapour, where its concentration in the air of the place of employment exceeds the ceiling of 25 parts per million; and the obligation to limit exposure as far as possible;
- *Articles 9 and 10.* Pre-employment medical examinations and periodical re-examinations at no cost to the workers to be undergone by all workers who are employed in work processes involving exposure to benzene or to products containing benzene; medical examinations to include blood tests and biological tests carried out under the supervision or with the assistance, as appropriate, of a competent laboratory; appropriate certification;
- *Article 11, paragraphs 1 and 2.* Prohibition on the employment of pregnant women, nursing mothers and young persons under 18 years of age in work processes involving exposure to benzene or products containing benzene;
- *Article 12.* Clearly visible danger symbols on any container holding benzene or products containing benzene;

- *Article 13.* Appropriate measures to provide that any worker exposed to benzene or products containing benzene receives proper instructions on measures to safeguard health and prevent accidents, and on the appropriate action in the event of poisoning; and
- *Article 14.* Procedures for the prevention of occupational risks and appropriate inspection.

4. *Part IV of the report form. Application of the Convention in practice. The Committee requests the Government to provide general information on the manner in which the Convention is applied, including extracts of inspection reports and data on the number of workers covered by the Convention, if possible, disaggregated by gender and the number and nature of the infringements recorded.*

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1975)

1. The Committee notes the information contained in the Government's report. It also notes the observations of 27 September 2004 by the Ecuadorian Confederation of Free Trade Unions (CEOSL) alleging that the company Rosas del Ecuador may have breached the provisions of the Convention, and the Government's reply of 11 February 2005 informing the Office that Rosas del Ecuador no longer exists and that its labour obligations will be met by mutual agreement by the end of February 2005, as noted in memorandum No. 023-ITP-2005. The Committee infers from the foregoing that the CEOSL no longer has a cause of action in this matter. In view of the great importance of the objectives of the dialogue that has been conducted since the end of the 1980s, the Committee once again draws the Government's attention to the following matters.

2. *Article 1, paragraphs 1 and 3, of the Convention. Determination of the carcinogenic substances and agents to be prohibited or made subject to authorization.* In its previous comments, the Committee noted the Government's reference to the Regulations concerning the safety and health of workers and the improvement of the work environment, 1986, and noted that section 64 of the Regulations established that corrosive, irritating and toxic substances may not be used in the workplace beyond the level fixed by the Inter-Institutional Committee. The Committee observes that the Inter-Institutional Committee has not set such limits. *The Committee hopes that the maximum permissible levels of exposure to carcinogenic substances or agents will be fixed by the Inter-Institutional Committee in order to ensure that the prohibitions and restrictions conform, and hence give full effect, to the provisions of the Convention.*

3. *Article 2, paragraph 2. Number of workers exposed to carcinogenic substances or agents and length of such exposure.* In its previous comments, the Committee noted that no progress had been made in establishing the requisite list of enterprises for the purposes of checking the length of workers' exposure to carcinogenic substances or agents. *Consequently, the Committee hopes that the Government's next report will contain information on progress made in this matter, and requests the Government to send a copy of the abovementioned list as soon as it is published. It invites the Government to use the standards established by the National Standardization Institute (INEN) and the International Standardization Organization (ISO) which may influence the duration, degree and number of workers exposed to carcinogenic substances or agents.*

4. *Article 5. Medical examinations after the period of employment.* In its previous comments, the Committee noted that, according to the Government, the Inter-Institutional Occupational Safety and Health Committee was examining the possibility of adopting procedures to monitor the state of workers' health after their employment. It notes that the Government refers to the Andean occupational safety and health instrument. *In view of the fact that the Government's report contains no information on the machinery established to monitor the state of health of workers after the period of employment, the Committee once again asks the Government to indicate the nature of the medical examinations carried out and the tests prescribed for workers exposed to carcinogenic substances during the period of their employment, stating their frequency, and after the period of employment.*

5. *Article 6(a). Legislative or other measures to give effect to the Convention.* The Committee notes the provisions of the Andean instrument on occupational safety and health, cited by the Government in its report, which lays down obligations for employers to protect the safety and health of workers. *It requests the Government to indicate the national provisions adopted in Ecuador for this purpose.*

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1978)

1. The Committee notes the information contained in the Government's reports. It also notes the observations of 27 September 2004 by the Ecuadorian Confederation of Free Trade Unions (CEOSL), alleging that the company *Rosas del Ecuador* may have breached the provisions of the Convention, and the Government's reply of 11 February 2005 in which it informs the Office that *Rosas del Ecuador* no longer exists and that its labour obligations will be fulfilled by mutual agreement by the end of February 2005, as noted in memorandum No. 023-ITP-2005. The Committee infers the CEOSL no longer has a cause of action in this matter.

2. The Committee notes with regret that the information supplied by the Government in the abovementioned reports is sparse and general in nature. *In view of the lack of progress in this matter, the Committee urges the Government to take steps in the near future to make the necessary amendments to the legislation and to ensure that full effect is given to the Convention.* The Committee accordingly reiterates its previous observation, which read as follows:

1. The Committee notes the Government's reply to its previous comments based on the comments made by the Latin American Central of Workers (CLAT), the National Union of Workers of the Telephone, Annotation and Revision Services of the Ecuadorian Telecommunications Institute (IETEL) "17 May", affiliated to the CLAT, and the Ecuadorian Confederation of United Class Organizations of Workers (CEDOC) concerning information on the application in practice of measures under Ministerial Agreement No. 136 of 23 February 1999 intended to afford protection to workers and supervisors in the telephone services against occupational hazards arising out of environmental noise and pollution such as those setting the normal working day at four and a half hours per day. It notes that the Government maintains that despite the Agreement of the Ministry of Labour and Human Resources No. 136 of 23 February 1999, which fixed the normal working day for telephone operators and supervisors at four and a half hours per day, during collective bargaining the workers obtained extensions to such limits of their own free will. The Committee would be grateful if the Government would provide copies of the said collective agreements voluntarily agreed to by the unions extending the normal working day beyond those set out in Agreement No. 136 of 1999. ***It would also be grateful if the Government would give its views as to the impact of such agreements on the safety and health of the workers of the sector, in view of the limits set by Agreement No. 136 of 23 February 1999.***

2. The Committee has requested, on several occasions, that the Government adopt the necessary measures to give effect to a certain number of Articles of the Convention. The Committee notes that the Government once again refers to sections of the Labour Code (sections 42, 416, 418, 441 and 443) that do not address the specific requirements of the said Articles of the Convention. The Committee wishes to indicate that as the provisions of the Convention are not, in principle, self-executing, upon ratification of the Convention, the Government is obliged to adopt all necessary legislative, regulatory and practical measures on the following provisions of the Convention.

Article 6, paragraph 2, of the Convention. Further to its previous comments, the Committee notes the Government's response that sections 416 and 418 establish the employer's responsibility in respect of the prevention of risks, and that the committees that assess risks can determine the responsibilities in the event of joint work in order to avoid occupational accidents or diseases. Moreover, it is the responsibility of all employers, without exception, irrespective of the fact that there may or may not be more than one employer at a workplace, to meet the requirements of section 42 of the Labour Code, without prejudice to the responsibility of each employer. The Committee would like to point out, however, that there are no procedures prescribed for the requirements of this paragraph of *Article 6* of the Convention that employers are required to collaborate whenever two or more of them undertake activities simultaneously at one workplace. ***It hopes the Government will soon take the necessary measures to ensure that such collaboration is required of employers whenever they are undertaking activities simultaneously at one workplace.***

Article 8, paragraphs 1 and 3. Air pollution and vibration. The Committee notes from the Government's report that there is no progress to report on the matters raised under these paragraphs of *Article 8* of the Convention. ***It therefore reiterates its previous hope for the establishment, by the Inter-Institutional Committee on Occupational Safety and Health, and under section 63 of the Safety and Health Regulations, of exposure limits for corrosive, irritating and toxic substances, by adopting the standards elaborated with respect to such substances by the American Conference of Governmental Industrial Hygienists. Please indicate the measures taken in this regard.***

Article 10. The Committee notes that there is no progress made regarding its previous comments under this Article of the Convention. It must therefore reiterate its hope that the Government will shortly take the necessary measures to establish guidelines or instructions concerning the type of personal protective equipment (e.g. double-layer gloves specially designed to prevent transmission of vibration through the hands, shoes with soles that absorb vibration transmitted by the ground, etc.) to be provided to workers exposed to vibration, based on section 55.8 of the Safety and Health Regulations (Executive Decree No. 2393 of 13 November 1986). ***Please indicate the measures taken in this regard.***

Article 11, paragraph 1. Further to its previous comments, the Committee notes that this is met by integral inspections, and particularly those carried out by the Occupational Safety and Health Department, but that there has been no information available on the reports of these inspections. The Committee wishes to recall its previous comment where it had noted that the Safety and Health Regulations provided for periodic medical examination of workers exposed to dangerous substances and excessive noise. It reiterates its request to the Government to indicate the measures taken to ensure that workers who may be assigned to work involving exposure to air pollution, noise or vibration are provided with medical examinations prior to their assignment to such work and to indicate the periodicity determined by the competent authority for the medical examinations to be provided to workers exposed to air pollution, noise or vibration. ***Please provide all indications in this regard.***

Article 12. The Committee notes that there is no progress made on matters raised in its previous comments under this Article of the Convention. ***It must therefore reiterate its request to the Government to indicate the measures taken or envisaged to ensure that the use of processes, substances, machinery and equipment involving exposure to air pollution, noise or vibration are notified to the competent authority.***

[The Government is asked to reply in detail to the present comments in 2007.]

Egypt

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1988)

1. The Committee notes the information contained in the Government's report, as well as the replies to its previous direct requests made in 2000 and 2005. It notes with interest the adoption of a new Labour Code No. 12/2003, and of Decree No. 211/2003 on the required conditions and precautions for the prevention of physical, mechanical, biological, chemical and harmful risks in the working environment in application of section 213 of the Labour Code.

2. *Article 8, paragraph 1, of the Convention. Establishment of criteria and exposure limits to air pollution, noise and vibration in the working environment.* Further to its previous comments, the Committee notes with satisfaction that sections 8 and 9 of Decree No. 211/2003 give effect to *Article 8, paragraph 1*, of the Convention.

3. The Committee is addressing a request on certain matters directly to the Government.

France

French Guiana

Hygiene (Commerce and Offices) Convention, 1964 (No. 120)

1. The Committee notes with regret that the Government's last report contains no reply to its previous comments. It must therefore repeat its previous comments, which read as follows:

Part IV of the report form. Practical application. The Committee notes the Government's indication that the application of the present Convention is satisfactory with regard to offices. On the other hand, in small trading establishments which are under-equipped, the rules of hygiene are not taken into account out of ignorance. However, the controls carried out often result in injunctions or even reports on contraventions. ***The Committee therefore requests the Government to indicate the measures taken to ensure good knowledge with, and the application of, rules of hygiene in all areas covered by the Convention. It invites the Government to continue to provide information on the manner in which the Convention is applied in the country by providing, for example, extracts of reports of the inspection services and, if such statistics are available, information on the number of persons covered by the Convention, the number and nature of the contraventions recorded, etc.***

2. ***The Committee trusts that the Government's next report will contain detailed information on the application of the Convention in practice.***

French Polynesia

Radiation Protection Convention, 1960 (No. 115)

1. The Committee notes the information contained in the Government's report. It notes that the reflection undertaken in the technical committee competent for the prevention of occupational risks concerning the improvements to be made to the regulations on exposure to ionizing radiations is continuing. It notes that this reflection has led to the identification of the need to coordinate the improvement of labour regulations in this respect, through the establishment of provisions, which do not currently exist in the field of public health. The Committee also notes the Government's indication that an inter-ministerial committee is due to be established in the near future on this subject, based on the model of the committee that has been working for several months on regulations respecting asbestos. However, the Committee regrets to note that the post of medical inspector has remained vacant since 2001 considering that, as indicated by the Government, a medical inspector could contribute to rapid progress in the inter-ministerial work on this subject. ***The Committee urges the Government to continue its efforts in the context of inter-ministerial committees, to appoint a medical inspector and to inform the Committee of the results of these efforts and any progress achieved.***

2. With reference to its observation made last year, the Committee regrets to note that the Government's report does not contain any information in reply to its question concerning the measures adopted or envisaged to give effect to the issues raised by the social partners concerning: the need for better protection for employees against ionizing radiations, particularly with regard to medical surveillance for employees during their professional careers and thereafter; the application of the regulations to public servants working in the health sector; and the conditions governing the intervention of employees at former nuclear testing sites. ***The Committee once again requests the Government to indicate the measures taken or envisaged to address the issues raised by the social partners.***

3. With reference to its previous comments, the Committee also notes with regret that no substantial changes appear to have occurred. ***It therefore repeats the points raised in its previous direct requests, which read as follows:***

In its previous comments, the Committee noted Deliberation No. 91-019 AT of 17 January 1991 adopted pursuant to Act No. 86-845 of 17 July 1986, establishing specific measures for the protection of workers against the danger resulting from external exposure to ionizing radiations.

The Committee noted that the dose limits set forth in section 5 of the Deliberation do not correspond to the revised dose limits set forth in the 1990 Recommendations of the International Commission on Radiological Protection (ICRP). Referring to *Article 3, paragraph 1, and Article 6, paragraph 2, of the Convention*, the Committee requested the Government to report on the steps taken or envisaged in the light of current knowledge to amend the dose limits for occupational exposure to ionizing radiations and to ensure effective protection of pregnant women.

The Committee also noted that, under section 3 of the Deliberation, exposed workers are defined as those who because of their work may be exposed to annual doses of ionizing radiations greater than one-tenth of the annual limit set for workers. With reference to *Article 8 of the Convention*, which calls for maximum permissible dose levels to be fixed for workers not directly engaged in radiation work, but who remain or pass where they may be exposed to ionizing radiations or radioactive substances, the Committee requested the Government to indicate the steps taken or envisaged to ensure that non-radiation workers are not exposed to doses of radiation greater than those set for the general public (i.e. 1 mSv per year).

The Committee further requested the Government to indicate the measures taken or envisaged to ensure the effective protection of workers against internal exposure to ionizing radiations in conformity with *Article 6*, which calls for dose limits to be set not only for external, but also for internal exposure.

The Committee notes the Government's information in its report that preparations have commenced, in consultation with employers' and workers' representatives, for a progressive revision of the labour legislation, including the provisions on protection against ionizing radiations, and that this process is expected to be finalized by the end of the first quarter of 1996. The Committee notes with interest the information that the revision will take into account the 1990 Recommendations of the International Commission on Radiological Protection (ICRP) in relation to the matters raised in the Committee's previous comments. In particular, it notes with interest that the 1990 ICRP Recommendations will be incorporated with regard to

maximum permissible dose limits of ionizing radiations from sources external to the body for all workers who are directly engaged in radiation work and for pregnant women (*Articles 3 and 6*), for workers not directly engaged in radiation work, but who remain or pass where they may be exposed to ionizing radiations or radioactive substances (*Article 8*), as well as the maximum permissible doses which may be taken into the body (*Article 6*) for workers directly engaged in radiation work. *Also with reference to its 1992 general observation on the Convention, the Committee hopes that the Government will soon be in a position to supply information on the provisions adopted to give full effect to the Convention and which are in conformity with the 1990 Recommendations of the ICRP and the 1994 International Basic Safety Standards.*

Emergency situations. Referring to the explanations provided in paragraphs 16 to 27 and 35(c) of its 1992 general observation on the Convention and in the light of paragraphs 233 and 236 of the 1994 International Basic Safety Standards, the Committee hopes that the Government will provide information on the measures taken or contemplated in relation to emergency situations.

Provision of alternative employment. With reference to paragraphs 28 to 34 and 35(d) of its 1992 general observation on the Convention and the principles set out in paragraphs 96 and 238 of the 1994 International Basic Safety Standards, the Committee requests the Government to provide information on the measures taken or contemplated to ensure effective protection of workers who have received accumulated exposure beyond which they would run an unacceptable risk and who may thus be faced with the dilemma of having to choose between protecting their health or losing their job.

[The Government is asked to reply in detail to the present comments in 2007.]

Guadeloupe

Radiation Protection Convention, 1960 (No. 115)

The Committee invites the Government to refer to the comments made in 2006 in its observation concerning the application of Convention No. 115 by French Polynesia.

[The Government is asked to reply in detail to the present comments in 2007.]

Benzene Convention, 1971 (No. 136)

1. The Committee notes the information contained in the Government's report. It notes the Government's indication that the regulations on the protection of workers against risks related to the use of benzene are identical to those in France. *It therefore refers to the comments made about France in 2005, in which the Committee noted with satisfaction that, through the adoption of Decree No. 2001-97 of 1 February 2001 and the amendments to the Labour Code, effect is given to Articles 1, 4(2), 9(1) and 10(2) of the Convention.*

2. The Committee is also addressing a request directly to the Government on certain other matters.

New Caledonia

Maximum Weight Convention, 1967 (No. 127)

1. The Committee notes the information contained in the Government's report and notes that a Labour Code is being drawn up by the Congress of New Caledonia. The report also indicates that a compilation of texts on occupational health and safety for professionals is also being drawn up. Furthermore, since May 2006, a subcommittee has been charged with making proposals on occupational safety and health at work. *While noting the information provided by the Government on the practical application of provisions relating to maximum weight of loads, particularly the use of modern technical handling devices and occupational training, the Committee is bound, once again, to reiterate its comments on the following points raised in its previous observation.*

The Committee notes that the provisions of the Labour Code of 1926, and particularly sections R.231-72, establish limits in the merchant marine sector for loads for which the manual transport is inevitable. The Committee also notes the Government's announcement that a draft order prepared by the Medical Labour Inspector will be submitted to the Government with a view to improving the regulations in force along the lines indicated by the Committee. In this respect, the Committee notes that the only regulation currently in force concerning the manual transportation of loads by workers is Order No. 1211 T of 19 March 1993, which gives effect to section 5 of Order No. 34/CP of 23 February 1989, which itself only establishes minimum safety and health requirements for the manual transport of loads which constitute a risk for workers, and particularly to their backs and lumbar regions. The Committee recalls that, in its previous comment, it noted the information provided by the Government, and particularly the findings of a survey of occupational physicians.

Articles 3 and 7 of the Convention. The Committee noted the finding of this survey that in general heavy loads are only handled occasionally, except in the case of certain activities, and particularly removals and the unloading of containers loaded with imported products. Furthermore, in practice, the average weight of loads is lower than 55 kg, except in the case of the lifting of sick persons and their transport on stretchers. With regard to the criteria applied by occupational physicians to conclude that a worker is fit for the manual transport of loads over 55 kg, account is taken of Order No. 1211-T of 19 March 1993, giving effect to section 5 of Order No. 34/CP of 23 February 1989, respecting minimum safety and health requirements for the manual transport of loads which constitute a risk for workers, and particularly to their backs and lumbar regions. In this respect, the Committee noted that section 3 above remained unchanged. The absolute limit for occasional lifts is set at 105 kg, and a worker may be regularly required to carry loads up to a maximum of 55 kg if he has been found fit by the occupational physician. While noting the findings of the above survey, the Committee therefore requested the Government to indicate the measures which had been taken or were envisaged to ensure that workers could not be required to engage in the manual transport of a load heavier than 55 kg. Once again, the Committee referred to the ILO publication *Maximum weight in lifting and carrying* (Occupational Safety and Health Series, No. 59, Geneva, 1988), in which it is indicated that 55 kg is the limit recommended from the ergonomic point of view for the admissible weight of loads to be transported occasionally by a male worker between 19 and 45 years of age.

Similarly, it states that 15 kg is the limit recommended from an ergonomic point of view for the admissible weight of loads to be transported occasionally by adult women. The Committee emphasizes that it has been raising this matter for many years. ***It therefore hopes that the Government will take the necessary measures to give effect to the provisions of the Convention.***

Articles 4 and 6. The Committee had noted the technical devices (trolleys, lifts, fixed or travelling cranes) used by workers depending on the financial means of the enterprise to limit or facilitate the manual transport of loads. ***The Committee requests the Government to continue providing information on the application of this Article in practice.***

Part V of the report form. The Committee notes the information provided concerning occupational accidents. The Committee requests the Government to continue providing information on the effect given in practice to the provisions respecting the maximum weight of loads which may be transported manually and, in particular, on the action taken to prevent this type of occupational accident. ***The Committee hopes that the Government will take the necessary measures, as soon as possible, for the adoption of the above draft order and to ensure that this text reflects the points raised by the Committee in its comments and to provide effective protection for workers called upon to lift and transport loads manually.***

The Committee firmly hopes that the Government will take the necessary legislative and/or other measures as soon as possible to ensure effective protection for workers who have to lift and transport loads manually.

2. The Committee requests the Government to supply any new legislative texts as soon as they are adopted.

[The Government is asked to reply in detail to the present comments in 2007.]

Germany

Safety and Health in Construction Convention, 1988 (No. 167) (ratification: 1993)

1. The Committee notes with appreciation the detailed information provided by the Government in its report, in particular, the significant changes in the Occupational Health Act (*Arbeitssicherheitsgesetz*) and the Occupational Safety Act (*Arbeitsschutzgesetz*). ***The Committee notes with satisfaction that in accordance with the information provided compliance is ensured with the following provisions of the Convention: Articles 2(g) (definition of scaffold); 5, paragraphs 1 and 2 (technical standards and standardized rules); 9 (taking into account safety and health concerns when designing and planning a construction project); 12, paragraph 2 (stopping operations); 13, paragraph 3 (protective measures); 16, paragraphs 1 and 2(a) (safe handling of vehicles and earth moving equipment); 18, paragraph 1 (work at heights); 20, paragraphs 1 to 3 (cofferdams and caissons); 24(a) and (b) (demolition work); 26, paragraphs 1 and 2 (handling of electricity); 27(a) and (b) (explosives); 31 (first aid) and 32, paragraph 3 (provision of sanitary facilities).***

2. The Committee is raising certain other points in a request addressed directly to the Government.

Ghana

Radiation Protection Convention, 1960 (No. 115) (ratification: 1961)

1. The Committee notes the information contained in the Government's report. However, it notes that the Government's report does not contain any reply to the Committee's previous comments. ***The Committee is therefore obliged to repeat its previous observation and urges the Government to provide detailed information on the following points:***

1. The application of all Articles of the Convention. The Committee has on numerous occasions previously drawn attention to the urgent need for the Government to adopt legislative binding measures in order to ensure the full application of the Convention. Unfortunately, the Committee notes from the Government's latest report that it still has not provided any reply to previous comments, that it continues to refer to the Radiation Protection and Safety Guides it has adopted, which the Government recognizes are not legally binding and which therefore do not ensure the application of the Convention. The Committee also notes that the Government still has not provided copies of documents required by the Committee for an appropriate appreciation of the manner in which the Convention is applied in Ghana. The Committee therefore feels obliged to once again repeat its previously expressed serious concern of the manner in which the Government applies the Convention and hopes that measures are taken with urgency in order to ensure the full effective protection of workers against ionizing radiation at the workplace, based on the dose limits for exposure adopted by the International Commission on Radiological Protection (ICRP) in 1990. ***The Committee urges the Government to provide detailed information in its next report on all legislative measures taken or envisaged to ensure the full application of the Convention.***

2. The Committee notes the reference made by the Government to Radiation Protection Instrument No. 1559 of 1993, adopted under the Atomic Energy Act No. 204 of 1963, regulating inter alia the control and use of radiation sources and application of ionizing radiation to persons. ***Noting that a new Atomic Energy Act was adopted in 2000 (Act No. 588 of 2000), the Committee requests the Government to clarify whether Act No. 204 of 1963 has been replaced or supplemented by Act No. 588 of 2000, to provide a copy of the latter Act and to provide information in its next report on measures taken or envisaged to adopt a new radiation protection instrument in order to ensure the effective protection of workers against ionizing radiation at the workplace.***

3. The Committee also notes from reports submitted under Convention Nos. 29, 98 and 182 that on 8 October 2003 a new Labour Act (Act No. 651) has been adopted and that it entered into force on 31 March 2004, indicating that legislative measures are in the process of being undertaken. It notes in particular that Part XV regulates general safety and health conditions and that sections 121 and 174(e) provide the possibility for the minister to issue regulations providing for specific measures to be taken by employers to safeguard the health and safety of workers employed by them. The Committee also notes that under section 122(a) labour inspections shall be carried out in order to ensure the enforcement of provisions relating to the safety, health and welfare of

workers under the Labour Act. *The Committee requests the Government to provide information in its next report on measures taken or envisaged to issue legally binding instruments under the Labour Act in order to give effect to the Convention and to provide copies of any proposed and/or adopted legislation. It also asks the Government to provide information with its next report on labour inspections carried out with respect to radiation work.*

[The Government is asked to reply in detail to the present comments in 2007.]

Guatemala

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1990)

1. The Committee notes the information contained in the Government's last report. It notes in particular the information on the application of *Article 6 of the Convention* (consultation with the employers' and workers' organizations concerned on the steps to be taken to ensure the application of the Convention). However, the Committee notes that, despite its reiterated requests, the Government omits to submit detailed information on the application of the following Articles of the Convention.

2. *Article 2 of the Convention. Regulation of the use of white lead, sulphate of lead, and all products containing these pigments, in the various types of work.* With reference to its previous comments, the Committee notes that inspections and investigations are carried out in enterprises operating in the painting industry, and that the two biggest such enterprises in the Republic (Grupo Solid SA and Comes) have indicated that they do not use white lead. It also notes that the General Directorate of Social Insurance, through the Occupational Safety and Health Department, is envisaging a follow-up plan in these enterprises and will make the necessary contacts with a view to conducting a professional investigation to ensure that white lead is not used in the manufacture of paint. It notes that the above Department has expressed interest in cooperating with ILO safety and health experts for the training of its personnel. ***The Committee requests the Government to keep it informed of any developments in this respect.***

3. *Article 3, paragraph 1. The necessary measures to ensure that males under 18 years of age and females do not perform any painting work of an industrial character involving the use of white lead or sulphate of lead or other products containing these pigments.* The Committee notes the Government's indication that it is formulating draft regulations on the worst forms of child labour, which are about to be submitted to the executive authorities for approval and in which there is an implicit prohibition of the use of toxic chemicals which are harmful to health. ***The Committee hopes that the above regulations will be adopted in the near future and that the relevant measures will guarantee that workers are not involved in painting work involving the use of white lead. It requests the Government to provide full information on the progress achieved in this respect, as well as copies of the new legislative texts or regulations adopted.***

4. *Article 5(II)(a), (b) and (c), in conjunction with Part V of the report form. Application of the Convention in practice.* The Committee notes the Government's indication that the Occupational Safety and Health Department, through health and safety technicians, undertakes advisory and information missions to enterprises with a view to monitoring compliance with the legislation in force respecting occupational safety and health. It also notes the absence of substantive information on the practical results achieved through inspections, such as extracts of inspection reports on the infringements detected, etc. ***The Committee requests the Government to provide the above information in its next report in order to enable the Committee to determine the extent to which the Convention is applied in practice in the country.***

5. *Article 5(III)(a). Notification of cases of lead poisoning.* The Committee notes the Government's indication that occupational diseases are still not classified and that the Guatemalan Social Security Institute records cases of lead poisoning in each district, but that they are not always considered to be occupational diseases, and are also registered as common diseases. ***The Committee hopes that occupational diseases will be classified in the near future, that penalties will be imposed on employers failing to notify cases of lead poisoning and that the activities of the Guatemalan Social Security Institute will lead to the identification of cases of lead poisoning and of suspected lead poisoning. It requests the Government to keep it informed of any developments in this connection.***

6. *Article 5(IV). Obligation to distribute to working painters instructions with regard to the special hygienic precautions to be taken in the painting trade.* With reference to its previous comments, the Committee notes that the Government's report contains no information on this subject. ***The Committee trusts that the Government will soon be in a position to take the necessary measures, by means of regulations or other means, to ensure that information and instructions on occupational safety and health standards are provided to all workers and employers concerned, as a prerequisite for compliance with the protection standards established by this provision of the Convention.***

7. *Article 7. Compilation of statistics on lead poisoning among working painters as to morbidity.* The Committee notes the Government's indication that the Guatemalan Social Security Institute compiles statistics on lead poisoning as to morbidity and mortality and that, through the National Occupational Safety and Health Council, which is part of the above Institute, instructions are given for its classification as an occupational disease and so that real data on lead poisoning can be obtained. ***The Committee trusts that the Institute will undertake a compilation in the very near future of data as to morbidity and mortality caused by lead poisoning and it requests the Government to supply the above data with its next report.***

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

1. *Part V of the report form. Application of the Convention.* The Committee notes the information contained in the Government's report. It also notes the information on the application of the Convention in practice, including the statistical report of the Guatemalan Social Security Institute of 2004, which contains information on the type of injury involved in employment accidents, the location of the injury and the number of cases, the origin or agent of the injury, and the number of accidents by gender and age. The Committee notes that in 2005, 150 enterprises in various sectors (94 in industry, 31 in commerce and 25 in services) were covered by advisory visits by the occupational safety and health technicians of the Occupational Safety and Health Unit. It notes the indication that the General Labour Inspectorate does not keep any record of complaints made relating to violations of the provisions contained in the Convention. ***The Committee hopes that the necessary measures will be taken in the near future so that, despite the absence of a register, statistics are compiled which make it possible to assess the manner in which the Convention is applied in practice. It also requests the Government to continue providing information in future reports on the number of workers covered by the relevant legislation and the number, nature and causes of the accidents that have occurred.***

Maximum Weight Convention, 1967 (No. 127) (ratification: 1983)

1. The Committee notes the information contained in the Government's report and the attached documents.
2. *Articles 3 and 7 of the Convention. Maximum weight of loads transported by an adult worker.* The Committee regrets to note that, despite its repeated comments over the last ten years, the Government has still not been able to promulgate the draft safety and health regulations that take into account the Maximum Weight Recommendation, 1967 (No. 128), of the ILO. The Committee understands that, even though the Department of Occupational Hygiene and Safety verifies that the manual transport of loads does not present a risk to the health of workers, section 6 of Agreement No. 885 of the Executive Board of the Guatemalan Social Security Institute, concerning the maximum weight that may be transported by a single worker still remains in effect. According to this section, the weight that may be lifted by a healthy male adult under 60 years of age is 120 pounds, in other words 60 kg, and the weight that may be lifted by a healthy female adult under 50 years of age shall not exceed 60 pounds, or 30 kg. ***In the light of this, the Committee urges the Government to promulgate, in the very near future, the new regulations on occupational safety and hygiene that envisage new limits for the maximum loads that can be carried by a single worker, and requests the Government to provide information on any progress made in this regard.***
3. *Article 5. Steps to ensure that workers receive adequate training or instruction in working techniques, with a view to safeguarding health and preventing accidents.* The Committee notes the Government's reference to the training activities in respect of physical loads, ergonomics and load handling, carried out by the Guatemalan Social Security Institute in 2004 and 2005. ***While taking due note of the information submitted, the Committee invites the Government to continue providing information on the training and instruction that is given to workers before they are assigned to work involving the manual transport of loads.***
4. *Part V of the report form. Application of the Convention in practice.* ***The Committee asks the Government to provide information on the application of the Convention in practice throughout the country and to supply, for instance, extracts of inspection service reports and, if available, information on the number and nature of the violations reported and the measures taken as a result.***

Guinea

Radiation Protection Convention, 1960 (No. 115) (ratification: 1966)

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

1. The Committee notes the information provided by the Government in reply to its comments. The Government indicates that a draft Order respecting air pollution, noise and vibration, cesspools, drinking water and protection against radiations had been prepared, but was subsequently separated into several draft Orders to make them more easily applicable. These draft Orders should have been adopted some time ago. However, the Advisory Commission on Labour and Social Legislation, as a tripartite commission, is composed of various members with very different concerns and sometimes constraints at the national level, which prevented it from completing its usual session. Furthermore, the Government states that the State of Guinea has priorities, even with regard to the adoption of laws and regulations. The Committee states that the Government has been expressing the intention for many years of adopting regulations to protect workers against ionizing radiations, without however in practice taking the necessary measures to this effect. It notes with regret that the Government's attitude disregards the urgency of taking the necessary legislative action for the adoption of regulations respecting protection against ionizing radiations. In this respect, the Committee recalls that this Convention was ratified by Guinea in 1966 and that since then the Committee has had to comment on various points concerning the application of the Convention. The Committee recalls that, when the Government takes the sovereign decision to ratify a Convention, it undertakes to adopt all the necessary measures to give effect to the provisions of the Convention in question. The Committee also considers that, while the Government may cite the existence of other matters which must take priority in the adoption of laws and regulations, it would be appropriate after the number of years that have elapsed for it to take the necessary measures to ensure that the draft Orders relating to the application of the provisions of this Convention are adopted as soon as possible. ***The Committee therefore once again hopes that the Government will soon be in a position to report on the adoption of provisions covering all activities involving the exposure of workers to ionizing radiations in the course of their work and in conformity with the dose limits referred to in its general observation of 1992, in the light of***

current knowledge, such as that contained in the 1990 Recommendations of the International Commission on Radiological Protection (ICRP) and in the Basic Safety Standards for Protection Against Ionising Radiation and for the Safety of Radiation Sources of 1994.

2. Further to its previous comments, the Committee once again draws the Government's attention to the following points.

Articles 2, 3, paragraph 1, 6 and 7 of the Convention. In its previous comment, the Committee noted the Government's statement that the current dose limits correspond to an equivalent of an annual dose of 50 mSv for persons exposed to ionizing radiations. The Committee had recalled the maximum dose limits for ionizing radiations established in the 1990 Recommendations of the International Commission on Radiological Protection and in the 1994 Basic International Safety Standards for Radiation Protection. For workers directly engaged in work exposed to radiation, this limit is 20 mSv per year averaged over five years (100 mSv over five years), and the actual dose must not exceed 50 mSv in any year. The Committee also draws attention to the dose limits envisaged for apprentices aged from 16 to 18 years, set out in Annex II, paragraph II-6, of the 1994 Basic International Safety Standards for Radiation Protection.

The Committee once again hopes that the maximum doses and quantities to be included in the Government's draft Order will be in conformity with the maximum permitted doses and quantities, and that the Government does indeed envisage adopting the above draft Order.

Situations of exposure in emergencies: provision of alternative employment. *The Committee once again requests the Government to indicate the measures which have been taken or are envisaged in relation to the points raised in paragraphs 35(c) and (d) of the conclusions of its 1992 general observation under this Convention.*

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

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1966)

1. The Committee notes the information contained in the Government's report. Despite the comments reiterated for several years, the Committee notes that the report does not reply to its observations and is therefore bound to repeat its previous observation on the following points:

2. *Article 11 of the Convention.* The Committee notes the Government's reply to its previous comments indicating that it has taken due note that section 170 of the Labour Code seems to permit employers to authorize or to order workers to remove safety devices, contrary to *Article 11* of the Convention. It also notes the Government's statement that such authorization is only based on prior measures taken by the employer to avoid all exposure to occupational risks, and that in any event it is the responsibility of the employer to promote best safety conditions at workplaces periodically visited by the labour inspectorate. *The Committee would nonetheless request the Government to consider including in the draft Labour Code implementing regulations that are in preparation, a specific provision prohibiting such authorization or order to remove safety devices, as required by this Article of the Convention.*

2. *The Committee hopes that the Government will do its utmost to take the necessary measures in the very near future.*

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1966)

1. The Committee notes with regret that the Government's latest reports do not contain a reply to its previous comments and do not include any new information in relation to the report provided in 2003. The Committee is therefore bound to reiterate its previous observation, which read as follows:

1. The Committee notes that the Government, in accordance with section 171 of the Labour Code, will be submitting draft orders on sanitary facilities in workplaces and the provision of drinking water and non-alcoholic drinks in enterprises and establishments. The Committee also notes the draft decree establishing Committees on Occupational Safety, Health and Working Conditions (CHSCT).

2. *The Committee recalls that, since 1989, it has been asking the Government to adopt the ministerial orders envisaged in section 171 of the Labour Code in the following areas: ventilation (Article 8 of the Convention); lighting (Article 9); drinking water (Article 12); seats for all workers (Article 14); and noise and vibrations (Article 18) in order to give effect to these provisions of the Convention. The Committee hopes that such decrees will be adopted after consultation with the representative organizations of employers and workers, in accordance with Article 5 of the Convention.*

3. *Article 1.* The Committee recalls its previous observation in which it drew attention to the fact that all workers who are mainly engaged in office work, including workers in the public services, are covered by the Convention. *The Committee hopes that the Government will take the necessary measures in the near future to ensure the full application of the Convention in the public service and requests the Government to indicate the progress made in this regard.*

2. *Part IV of the report form.* *The Committee wishes to draw the Government's attention to the fact that the information that it is requested to provide in this respect concerns the number of workers covered by the national legislation and the number and nature of the contraventions reported. This type of information may be found, for example, in the reports of the labour inspection services.*

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

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1976)

Referring to the comments the Committee has been making for several years concerning *Article 2, paragraph 1, of the Convention*, the Government has explained in several of its reports that, under section 4 of Order No. 93/4794/MARAFDPT/DNTLS of 4 June 1993, an employer is required to replace a carcinogenic substance or agent by a non-carcinogenic or less carcinogenic substance or agent provided that one exists, each time that such replacement

can be envisaged in view of the given circumstances. The Committee notes that, in its last report, the Government indicates briefly that measures will be taken as soon as the new Labour Code is adopted to align the provisions of section 4 of the abovementioned Order. ***The Committee asks the Government to send a copy of the new Labour Code as soon as it is adopted and to indicate any progress made in this matter.***

Iraq

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1966)

1. 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 the Government's indication to the effect that it does not dispose of any statistics concerning the lead poisoning among working painters for the period ending 30 June 1999. For a number of years, the Committee has been recalling to the Government that *Article 7* of the Convention requires the establishment of statistics on lead poisoning among working painters. In this respect, the Committee once again refers to section 8(a) of the Instructions for the Prevention of Lead Poisoning among Painting Workers, according to which cases of lead poisoning shall be reported and statistics kept. The Committee notes the Government's indication that cases of lead poisoning must be notified to the Labour Inspectorate, and the Ministry of Health is the competent authority responsible for keeping statistics concerning the morbidity and the mortality of working painters due to lead poisoning. ***The Committee, taking note of this information supplied by the Government in its report, requests the Government to indicate the measures taken or envisaged to establish statistics on lead poisoning of working painters, as required under section 8(a) of the Instructions for the Prevention of Lead Poisoning among Painting Workers.***

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

Radiation Protection Convention, 1960 (No. 115) (ratification: 1962)

1. The Committee regrets 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 contained in the Government's report. It notes that the report does only contain a few new elements in reply to comments it has been made since 1992. The Committee is therefore bound to draw again the Government's attention to the following points.

1. *Articles 3, 4, 5, 6, 7 and 8 of the Convention.* The Committee had noted in previous comments that the provisions found in Act No. 99 of 1980 concerning protection against ionizing radiations does not specify detailed measures necessary for the application of the Convention, but does provide for instructions to be established ensuring implementation of the Act. With regard to the issuing authorities, section 10 of the above Act empowers the Radiation Protection Board to issue these instructions concerning measures to be taken to prevent accidents. In this context, the Committee notes the Government's indication that the authority responsible for radiation protection has issued circulars indicating the limits of safe exposure to radiation, in application of section 8 of Act No. 99, 1980, proving for the responsibility of the Radiation Protection Board to set maximum dose limits permissible for exposure to ionizing radiations. ***The Committee requests the Government to supply a copy of these circulars for further examination to enable the Committee to determine whether the limits prescribed in these circulars cover the different categories of workers, in accordance with Articles 7 and 8 of the Convention.***

As concerns protective measures to be taken when exposed to radiation, the Committee had noted in previous comments that section 8 of Act No. 99, 1980, obliges the Radiation Protection Board to issue, inter alia, the necessary instructions in this regard. ***The Government accordingly is requested to indicate the steps taken or being considered in this regard to ensure effective protection of workers against ionizing radiations and to restrict the exposure of workers to the lowest practicable level avoiding any unnecessary exposure, as prescribed under Article 3, paragraph 1, Article 5 and Article 6, paragraph 2, of the Convention.***

Article 9. The Committee notes the Government's indication to the effect that this Article of the Convention is applied on the basis of instructions and Recommendations issued by the Radiation Protection Centre. However, there are no legal texts specifically covering this matter. In this respect, the Committee notes again section 107 of the labour code providing for the employer's obligation to inform workers in writing, prior to their assignment, of the occupational hazards involved in the work in question and the protective measures to be taken. By virtue of this section, the employer must also post instructions concerning occupational dangers and the protective measures to be taken, in accordance with instructions drawn up by the Minister of Labour and Social Affairs. ***The Committee asks the Government to enlighten the character of the instructions and Recommendations issued by the Radiation Protection Centre, particularly with a view to their impact and their possible binding effect, although they do not constitute legal texts. The Government is also requested to provide copies of the above instructions and recommendations for further examination.***

Article 11. The Committee notes the Government's indication that section 11 of Act No. 99, 1980, concerning inspection, and section 12, specifying the obligations of the owner of an ionizing radiation source, cover the matters dealt with in this Article of the Convention. The Committee therefore points out that *Article 11* of the Convention calls for appropriate monitoring of workers and places of work to evaluate the exposure of workers to ionizing radiations and radioactive substances, with a view to ascertain that the levels of exposure fixed by the competent authority are observed. The Committee ventures to call the Government's attention to Paragraphs 17 to 19 of the Radiation Protection Recommendation, 1960 (No. 114), which propose a number of measures to be taken in this connection. ***The Government is requested to indicate the measures taken or envisaged in order to ensure that both workers and places of work are appropriately monitored in order to determine whether the dose limits fixed are respected.***

Articles 12 and 13(a). Further to its previous comments, the Committee notes again section 12, subsection 5 of Act No. 99, 1980, providing that owners of a source emitting ionizing radiations shall submit exposed workers to preliminary and periodic medical examinations in conformity with the instructions. In its report for 1986, the Government had indicated that instructions had been established providing for pre-employment and periodic medical examinations. The Committee notes with regret that the

Government did not transmit yet a copy of these instructions. *The Government is once again requested to supply a copy of these instructions in order to enable the Committee to examine the type and nature of the examinations required as well as the circumstances in which, because of the nature or degree of exposure or both, workers shall undergo appropriate medical examinations.*

2. With reference to its previous comments, the Committee recalls that, under *Article 2, paragraph 1*, of this Convention applies to all activities involving exposure of workers to ionizing radiations in the course of their work. In the direct requests the Committee has addressed to the Government since 1982, it had noted that Act No. 99, 1980, under the terms of section 2, only applies to the use of radiation sources for peaceful purposes. The Government had indicated in its report for 1986 that a permanent central committee had been established to examine cases of radiation exposure on a regular basis. It further indicated that workers engaged in research were covered by Act No. 99. Section IV of Instructions No. 1 issued by the Radiation Protection Board provides that the Centre for Radiation Protection will examine each case where persons not covered by Act No. 99 present a request to the Radiation Protection Board. The Centre will transmit its recommendations in this regard to the Board, which shall then make an appropriate decision. *The Government is again requested to indicate the manner in which the provisions of this Convention are applied to activities not covered by Act No. 99, in particular, in respect of defence work involving exposure to ionizing radiations. Furthermore, the Government is again requested to provide additional information on the composition and competence of the Centre for Radiation Protection, as well as its duties, responsibilities and enforcement powers.*

3. Finally, the Committee calls once again the Government's attention to paragraphs 16 to 27 and 35(c) of its 1992 general observation under this Convention concerning occupational exposure during and after an emergency. *The Government is again requested to indicate whether, in emergency situations, exceptions are permitted to the normally tolerated dose limits prescribed for exposure to ionizing radiations and, if so, to indicate the exceptional levels of exposure allowed in such circumstances and to specify the manner in which these circumstances are defined.*

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

Italy

Benzene Convention, 1971 (No. 136) (ratification: 1981)

1. The Committee notes the information contained in the Government's reports and the observations submitted by the Italian General Confederation of Labour (CGIL), the Italian Confederation of Workers' Unions (CISL) and the Italian Union of Labour (UIL). It notes with interest the adoption of Decree No. 25 of February 2002 (replacing the relevant provisions in Decree No. 303/1956); Decree No. 66 of 25 February 2000 (revising section VII of Decree No. 626/1994); Decree No. 707 of 10 December 1996 (replacing the relevant provisions of Law No. 245/1963) and Decree No. 345 of 4 August 1999 giving effect to *Articles 1, paragraph (b), 4, 6, paragraphs 2 and 3, 9, paragraphs 1 and 2, 10, paragraph 1, and 11, paragraph 2, of the Convention.*

2. *Article 11, paragraph 1, of the Convention. Prohibition against employment of pregnant women and nursing mothers in work processes involving exposure to benzene.* With reference to its previous comments, the Committee notes in particular that, although new legislation on this subject has been adopted (cf. article 7 of Decree No. 151 of 26 March 2001), national law still provides that pregnant and nursing mothers should not be exposed to work involving the risk to exposure to dangerous chemical agents such as benzene during the period of pregnancy and for *seven months after birth*. The Committee reiterates that this provision of the Convention is intended to protect mothers and children during the whole nursing period, which may often exceed seven months following delivery and that, as a consequence, the prohibition on the employment of nursing mothers should not be limited in time by law. The Committee also notes the observations by the CGIL, CISL and UIL who underscore the need to adjust legislation in this respect. *The Committee urges the Government to take the necessary measures in a near future to ensure that nursing mothers (irrespective of the length of the nursing period) are not employed in work processes involving exposure to benzene or to products containing benzene and to supply information in its next report on progress achieved in this respect.*

[The Government is asked to reply in detail to the present comments in 2007.]

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1981)

1. The Committee notes the information contained in the Government's report including the observations submitted by the Italian General Confederation of Labour (CGIL), the Italian Confederation of Workers' Unions (CISL), and the Italian Union of Labour (UIL) attached thereto. The Committee draws the Government's attention to the following points.

2. *Article 1, paragraphs 1–3, of the Convention. Prohibited substances or substances subject to authorization.* The Committee notes the information submitted by the Government as regards *paragraph 1* of this Article that, while the relevant legislation referred to in its previous reports in other respects remains the same, Legislative Decree No. 25 was adopted on 2 February 2002, in application of Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemicals at work, entailing a repeal of Chapter II and Annexes I, II, III IV and VII of Legislative Decree No. 277 of 15 August 1991, Legislative Decree No. 77 of 25 January 1992 and items 1 to 44 and 47 of the table annexed to DPR No. 303 of 19 March 1956. The Committee notes the information that accordingly, four chemical agents have been added to the list of prohibited chemicals, but that this changed legislation does not affect the continued prohibition against the use of asbestos. With reference to *paragraph 2* of this Article, the Committee notes the information that the prohibition against the use of chemical agents does not apply if an agent is present in the preparation, or any component of waste, provided that the individual concentration is less than the limit prescribed in relevant legislation, and with reference to *paragraph 3*, that the following activities may be performed subject to prior authorization: (a) activities

for the exclusive purposes of scientific research and experiment, including analysis; (b) activities to eliminate chemical agents present in the form of by-products or waste; and (c) production of chemical agents for intermediate use.

3. *Article 3. Preventive measures and record keeping.* In response to its previous comments, the Committee notes with interest the Government's detailed explanations of the preventive and protective measures prescribed in sections 62, 63 and 64 of Legislative Decree No. 626/94, as amended up to Decree No. 25/02, the further detailed information concerning the functions and competence of the Higher Institute for Occupational Safety and Health (ISPESL), the Information System for Recording Exposure and Pathologies in the Workplace (SIREP), and the establishment of a new cancer report database on the basis of notifications of tumours suspected to be of occupational origin suffered by National Health System patients. The Committee notes with interest the adoption of President of the Council of Ministers Decree No. 308 of December 2002, containing regulations to determine a model and method of keeping records of cases of asbestos-related mesothelioma as well as Minister of Labour and Social Policies Decree of 27 April 2004, the main purpose of which is to constitute a uniform source of information covering the whole national territory through management of the national archive of occupational diseases managed by the National Institute for Occupational Accident Insurance (INAIL). The Government reports that this system is expected to enable a monitoring of national patterns of occupational diseases. In this context, the Committee also notes that the Government's report does not specifically address the observations made by the CGIL, CISL and UIL that, in their view, the provisions in section 72(11) of Decree No. 626/94, Title VIII concerning the establishment of an appropriate system of records have not been effectively implemented in practice. ***Against this background, the Committee requests the Government to provide more detailed information on the application in practice of relevant legislation giving effect to this provision of the Convention.***

4. *Article 5. Medical examinations.* With reference to its previous comments, the Committee notes with interest the further explanations by the Government in response to its previous comments and concerns raised by the CGIL, the CISL and the UIL, that Legislative Decree No. 277/91, article 8 together with Legislative Decree No. 626/94, article 69, paragraph 3, provide that, in all cases where the worker, following a medical examination by a competent doctor, is unfit for a specific position, must be assigned to another equivalent position and where this is not possible, to a lower position (while retaining the same remuneration) and that pursuant to paragraph 3, article 8 of Decree No. 277/91, the maximum time period for a temporary withdrawal of workers is regulated by collective agreement. ***The Committee requests the Government to provide additional information on the application in practice of this Article of the Convention.***

5. *Part IV of the report form and Article 6(c).* With reference to its previous comments, the Committee notes the information provided in the study "Estimate of the Number of Workers Exposed to Concern-Causing agents in Italy 1990–93", within the framework of the European Study CAREX (CARcinogen EXposure). The CAREX database, constructed with support from the Europe against Cancer programme of the European Union (EU), provides selected exposure data and documented estimates of the number of exposed workers by country, carcinogen, and industry. CAREX includes data on 139 agents evaluated by the International Agency for Research on Cancer. According to this study there were in Italy about 4.2 million workers, i.e. 24 per cent of the workforce exposed to the agents included in study, with some 5.5 million exposures and that the most common exposures were environmental tobacco smoke (770,000 exposed workers), solar radiation (550,000), diesel engine exhaust (550,000), asbestos (350,000), wood dust (300,000), crystalline silica (260,000), lead and inorganic compounds (220,000), benzene (180,000), hexavalent chromium and compounds (130,000), and PAHs (polycyclic aromatic hydrocarbons) (130,000). ***While noting this information, the Committee again requests the Government to provide further and more recent information on the manner in which the Convention is applied in Italy, including extracts from labour inspection reports and, if such statistics are available, the number of workers covered by the legislation, disaggregated by gender if possible, or other measures taken or envisaged which give effect to the Convention, the number and nature of contraventions reported, the number, nature and cause of the disease, etc.***

[The Government is asked to reply in detail to the present comments in 2007.]

Jordan

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

1. The Committee notes the information contained in the Government's latest report, as well as the statistical information contained in the report for 2004, issued by the Division of Occupational Safety and Health.

2. *Article 4 of the Convention. Obligations of the vendor, the person letting out on hire or transferring the machinery, the exhibitor or the manufacturer.* The Committee notes that the Government's report contains no specific indication concerning measures giving effect to this Article. It recalls that the obligation to prohibit the sale, letting out on hire, or transferring of the machinery in any other manner, and the exhibiting of machinery without appropriate guards rests with the vendor, the person letting out on hire or transferring the machinery in any other manner or the exhibitor and, where appropriate, on their respective agents, as well as on the manufacturer when he/she sells machinery, lets it out on hire, transfers it in any other manner or exhibits it. ***The Committee hopes that the Government will indicate in its next report the measures taken or envisaged to give full effect to the provisions of this Article.***

3. *Part V of the report form.* The Committee notes the statistical information concerning interventions by the Division of Occupational Safety and Health during 2004 in various establishments. ***The Committee requests the***

Government to continue to provide in its next report statistical information covering several years to enable the Committee to follow the progress.

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1965)

1. The Committee notes the information contained in the Government's report, including the adoption of regulations concerning the protection of workers and institutions against risks at the workplace promulgated under section 79 of the Labour Code. The Committee notes with satisfaction that sections 11 and 12 of the Regulations give effect to *Articles 8, 9, 10, 11, 12, 13, 14, 15, 17 and 18 of the Convention*.

2. *Article 1 of the Convention. Public officials.* Further to its previous comments, the Committee notes that the Government's report contains no further information concerning rules applicable to public officials. ***The Committee reiterates its request to the Government to supply the text that applies to public officials and to indicate, if any, the measures taken or envisaged to ensure that the Convention is applied to all workers, including public officials, who work in establishments, institutions and administrative services in which they are mainly engaged in office work.***

3. *Article 7. State of premises and equipment.* The Committee notes the indication in the Government's report to the effect that machinery and instruments are periodically maintained by specialist technicians. The Committee recalls that, under *Article 7*, all premises used by workers and the equipment of such premises, shall be properly maintained and kept clean. ***The Committee requests the Government to indicate the measures taken or envisaged to give full effect to Article 7 of the Convention.***

4. *Article 16. Underground premises.* The Committee notes that the abovementioned regulations concerning instructions on the protection of workers and institutions against risks at the workplace contain no provisions that give effect to *Article 16* of the Convention (appropriate standards of hygiene in underground or windowless premises). ***The Committee requests the Government to indicate measures taken or envisaged to give effect to Article 16 of the Convention.***

Malta

Maximum Weight Convention, 1967 (No. 127) (ratification: 1988)

1. The Committee notes the information contained in the Government's report and the attached legislation. The Committee notes with satisfaction the legislative measures undertaken by the adoption of the General Provisions for Health and Safety at Work Places Regulations (LN 36 of 2003) and the Protection against Risks of Back Injury at Work Places Regulations (LN 35 of 2003), which ensure the application of *Articles 1, 3, 4, 5 and 6 of the Convention*.

2. The Committee is raising certain other points in a request addressed directly to the Government.

Benzene Convention, 1971 (No. 136) (ratification: 1990)

1. The Committee notes the information contained in the Government's report and the attached legislation.

2. *Article 14 of the Convention. National legislation.* The Committee notes with interest the legislative measures undertaken by the adoption of the General Provisions of Health and Safety at Workplaces Regulations (LN 36 of 2003) and the Regulations on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (LN 122 of 2003) ensure the application of *Articles 2, 4, 5, 6, 7, 8, 9, 10, 12 and 13* of the Convention. It particularly notes that the concentration of benzene in the air in places of employment shall not exceed 3.25 mg/m³ (1 ppm) (Schedule III of LN 122 of 2003). The Committee further notes with interest the adoption of the Protection of Maternity at Workplaces Regulations (LN 92 of 2000), and the Protection of Young Persons at Workplaces Regulations (LN 91 of 2000, as amended by LN 283 of 2004) ensures the full application of *Article 11* of the Convention.

3. *Articles 9 and 10. Medical examinations free of cost for workers.* With reference to its previous comments the Committee notes with satisfaction that section 16 of LN 36 of 2003 and section 14 of LN 122 of 2003 now provide that pre-employment and, periodically thereafter, medical examination, shall be carried out and that Schedule II of LN 122 of 2003 provide recommendations that these records shall be kept and, where appropriate, biological monitoring shall be carried out. It also notes the Government's statement that the records shall be kept for at least 40 years after the end of the exposure.

4. The Committee is raising certain other points in a request addressed directly to the Government.

Paraguay

Radiation Protection Convention, 1960 (No. 115) (ratification: 1967)

1. The Committee notes the information contained in the Government's report. It notes with satisfaction the adoption of Decree No. 10754/2000 including provisions giving effect to *Article 3, paragraph 1* (measures taken to ensure effective protection of workers against ionizing radiation), *Article 4* (obligation to arrange and conduct activities to ensure effective protection), *Article 5* (restricting exposure to ionizing radiation to the lowest practicable level), *Article 6*,

paragraph 1 (maximum permissible doses of ionizing radiations for various categories of workers) and Article 7, paragraph 1 (maximum permissible doses for workers under the age of 18), of the Convention.

2. *Article 2 of the Convention and Part V of the report form. Application of the Convention.* The Committee notes that according to the Department for the Protection against Radiation of the Directorate for the Control of Occupational Health and Health establishments of the Ministry of Health, Social Welfare Decree No. 10754/2000 applies to all workers occupationally exposed to ionizing radiations in the country. ***The Committee requests the Government to provide a general appreciation of the manner in which the Convention is applied in the country, including, for instance, extracts from official reports and information on any practical difficulties in the application of the Convention.***

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1967)

1. The Committee notes the information contained in the Government's report. As the report does not contain replies to its previous comments, the Committee once again draws the Government's attention to the following points.

2. *Article 2, paragraphs 1 and 2, and Articles 4 and 15 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 and penalties.* With reference to its previous comments, the Committee notes the information provided by the Government that enterprises which use machinery and/or equipment without protection are penalized. It also notes that ILO assistance has been requested in 2006 for a revision of the provisions that are in force respecting occupational safety and health to regulate and discuss on a tripartite basis matters relating to Articles 4 and 15 of the Convention. ***The Committee hopes that, following this revision, the national legislation will contain provisions explicitly prohibiting the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards, providing that the obligation to ensure compliance with this prohibition shall rest on the vendor, the person letting out on hire or transferring the machinery in any other manner, or the exhibitor and their respective agents, and establishing penalties to give effect to the provisions of the Convention. The Committee requests the Government to provide a copy of the revised text with its next report.***

3. *Part V of the report form. Application of the Convention in practice.* The Committee notes the copy of the inspections carried out which was attached to the report. It notes that the report of the inspection in La Planta Industrial Siderúrgica "Aceros del Paraguay SA – CEPAR" bears little relation to the application of the Convention. It also notes that, according to the Government's report, there are no precise statistical data for the period between 1 June 1999 and 31 May 2005. ***The Committee hopes that the Government will adopt the necessary measures to compile and communicate in its next report indications on the manner in which the Convention is applied in practice, and particularly statistical data on the number and nature of the infringements reported, the number, nature and cause of the accidents occurring, etc.***

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1967)

1. The Committee notes the information contained in the Government's report and notes that the report contains almost no relevant information in reply to the observations made to the Government in 2000, 2003, 2004 and 2005. ***The Committee therefore urges the Government to reply to the following questions.***

2. *Article 6, paragraph 1, and Part IV of the report form. Appropriate measures taken by the inspection services and the application of the Convention in practice.* The Committee notes that compliance with the laws that are in force is ensured by the labour inspection services by means of visual inspections, where necessary, accompanied by instruments to measure the levels of noise and temperature. Recommendations and indications of appropriate corrective measures are proposed to improve working conditions and the working environment. The Committee also notes that the changes which have to be made to improve working conditions and the working environment depend on the gravity of the risks that exist, and that the necessary measures have to be adopted within a specific time frame (2, 7, 15, 30, 45 days) and that subsequent inspections are carried out once this period has ended. With regard to the application of the Convention in practice, the Committee notes the Government's indications that the infringements detected relate to noisy environments, lack of illumination and ventilation, excessive heat and the use of inadequate personal protective equipment. ***The Committee requests the Government to provide information in its next report on the manner in which effect is given in practice to the provisions of the Convention, including information on the employed persons covered by the relevant legislation and the number and nature of the infringements reported, as well as extracts from inspection reports to enable the Committee to assess the effectiveness of the supervision carried out.***

Peru

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1976)

1. The Committee notes the information contained in the Government's report.

2. *Article 1, paragraphs 1 and 3, of the Convention. Periodic determination of the carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization or control.* With reference to its previous comments, the Committee notes that for many years it has been drawing the Government's attention to the

need to take measures to determine periodically the carcinogenic substances and agents to which occupational exposure shall be prohibited or authorized or controlled by a special body. The Committee notes that the Government, according to its last report, has not undertaken a revision of the schedule to Supreme Decree No. 007-93-TR determining carcinogenic and co-carcinogenic substances and agents. It also notes the Government's reference to ministerial resolution No. 243-2005/MINSA of 22 March 2005, through which the Ministry of Health published on its web site draft amendments to the permissible limit values for chemical agents in the working environment, approved by Supreme Decree No. 0258-75-SA, indicating that schedule II to the above document contains permissible limit values for carcinogenic chemical agents in the working environment and that schedule III includes the list of carcinogenic chemical agents with which contact shall be avoided. *Noting that the prohibition, authorization and control of substances and agents that are periodically determined is a very important aspect of the application of the Convention, and that the Ministries of Labour and Employment Promotion and of Health have established the Occupational Cancer Prevention and Control Commission, the Committee hopes that the Government will, in the near future, complete the process of determining the carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization or control, and it requests the Government to provide information on the progress achieved in this respect.*

3. *Article 3. Establishment of a system of records.* The Committee notes that, according to the Government's report, there is no system in the country for the recording of cases of occupational cancer and/or occupational diseases and that the National Health Institute nevertheless registers occupational diseases when medical assessments are undertaken in work centres or when workers undergo occupational medical assessment. *The Committee recalls that, in accordance with this Article, an appropriate system of records has to be established and it trusts that the Government will take the necessary measures to ensure the existence of such a system in the near future. It requests the Government to provide information on the progress achieved in this respect.*

4. The Committee is addressing a request directly to the Government on other matters.

Senegal

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1960)

1. The Committee notes the information contained in the Government's last report, to which are annexed Orders No. 8822 of 14 November 1955, establishing the precautions to be taken for the protection of workers performing painting operations and applying varnish using sprays, and No. 8827 of 14 November 1955, establishing the specific health measures applicable in French West Africa in establishments in which the personnel is exposed to lead poisoning.

2. *Article 7 of the Convention. Statistical information.* With reference to its previous comments, the Committee notes the indication contained in the Government's report that statistics are not available on cases of morbidity and mortality due to lead poisoning among working painters. The Government indicates that such statistics will be supplied to the Committee once they have been collected and compiled. The Committee wishes to remind the Government that it has been requesting it to provide these statistics since 1988. *The Committee is bound once again to express the firm hope that the Government will provide statistical data in the very near future, in accordance with Article 7 of the Convention.*

[The Government is asked to report in detail in 2007.]

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1966)

1. The Committee notes the information contained in the Government's report. It notes, in particular, that the procedure for the adoption of a new draft decree establishing the general hygiene and safety measures for establishments of all types is still ongoing. The Government indicates that the text of this decree will be sent to the Committee as soon as it has been formally adopted. *The Committee requests the Government to provide a copy of the decision once it is adopted.*

2. *Articles 14 and 18 of the Convention. Seats for all workers and protection against noise and vibrations.* As in its previous comments, the Committee notes with concern that the legislative process begun in 1992 has never been completed. *The Committee hopes, once again, that the procedure for the adoption of the decree in question will be completed in the very near future so as to give effect to the provisions of Articles 14 and 18 of the Convention.*

[The Government is requested to report in detail in 2007.]

Spain

Radiation Protection Convention, 1960 (No. 115) (ratification: 1962)

1. The Committee notes the Government's report, including information in response to its previous comments and copies of recently adopted legislation. It notes the adoption of Decree No. 783/2001 of 6 July 2001 (2001 Decree) regulating radiation protection of workers and laying down basic safety standards for the protection of the health of

workers and the general public against dangers arising from ionizing radiation, which repeals Decree No. 53/1992 of 24 January 1992. With reference to its previous comments, the Committee notes with satisfaction that the 2001 Decree gives effect to *Article 3, paragraph 1, Article 6, paragraph 2, Article 7, paragraph 2, and Article 13 of the Convention* and that it provides for dose limits in accordance with the recommendations of the International Commission on Radiological Protection (ICRP) of 1990, to which the Committee referred in its 1992 general observation under the Convention.

2. *Article 14. Alternative employment or other measures offered for maintaining income where continued assignment to work involving exposure is medically inadvisable.* With reference to its previous comments, the Committee notes with interest the Government's indication that section 25 of Law No. 31/1995 and legislation on social security and protection against ionizing radiation, also cover the provision of alternative employment opportunities for workers having prematurely accumulated their lifetime dose. The Committee further notes with interest the Government's statement that workers having accumulated an effective dose beyond which is detrimental to the worker's health, are entitled to economic benefits under the social security legislation, or as agreed in collective agreements, in order to maintain their income. With regard to pregnant women, the Committee notes with interest that sections 14, 15 and 17 of Decree 1251/2001 provide for an economic benefit of 75 per cent of the "regulatory base" for temporary incapacity benefits as a manner to maintain the income of pregnant women, which could also be improved in certain cases by collective agreements. ***Recalling the terms of its general observation of 1992 under this Convention, in particular paragraph 32, the Committee requests the Government to provide further information on the practical application of this Convention, in particular on the measures taken or envisaged to offer workers concerned, who are not covered by social security legislation or collective agreements, alternative employment or other measures for maintaining their income, and to provide examples of collective agreements containing provisions on such other measures offered.***

3. *Article 15 and Parts III and V of the report form.* The Committee notes the information on the practical application of the Convention. It notes in particular that the number of inspections carried out has increased by 7.7 per cent compared to 2003 and that the number of infringements recorded has decreased since 2000. ***The Committee encourages the Government to continue to submit all available information, for instance, statistical information on the number of workers exposed to ionizing radiations disaggregated by gender if available, extracts from inspection reports showing the number and nature of infringements observed, copies of any official publications addressing issues related to ionizing radiations, etc.***

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1985)

1. The Committee notes with interest the detailed information contained in the Government's report. It notes in particular the great change in the country in relation to occupational safety and health conditions which occurred with the adoption of Act No. 31/1995, a Framework Act, and its subsequent development through regulations, as envisaged under section 6 of the Act, which has made it possible to develop and facilitate the application of the Convention. It notes that, with the adoption of the above Act, the national legislation distanced itself from the traditional approach of considering occupational safety and health from the viewpoint of the compensation of damage, and replaced it with a fundamentally preventive approach to occupational safety and health. ***In this respect, the Committee requests the Government to keep it informed of any legislative developments which contribute to giving effect to the Convention.***

2. *Article 11(e) of the Convention. Publication of occupational accidents and diseases.* The Committee also notes the information provided by the Government concerning trends in relation to occupational accidents. It notes the statistics prepared by the Ministry of Labour and Social Affairs on trends in the total number of occupational accidents for the period 2003–05. It notes that in 2004 there was a slight decrease in the total number of occupational accidents in comparison with 2003 (-0.34 per cent), although this trend was reversed in 2005, with an increase of 3.8 per cent in relation to 2004. With regard to the gravity of the accidents, the Committee notes the increase in 2005 in the percentage of light injuries, which accounted for 98.9 per cent of the total, leading to a reduction in the percentage of serious injuries. It further notes that the number of fatal accidents remains practically constant, as the total number of such accidents has been reduced in recent years. The Committee notes an increase in 2005 in the number of employment accidents investigated by the Labour and Social Security Inspectorate. ***The Committee requests the Government to continue providing information on trends in relation to occupational accidents.***

3. The Committee notes with interest the information provided by the Government on the many activities undertaken in accordance with the Plan of Action of 1998 and the indication that its application has contributed to increasing the level of compliance with rules on the prevention of occupational risks and to promoting a culture of prevention. It notes that as a continuation, supplement and improvement to the Plan of Action of 1998, the following instruments have been adopted: Plan for the Improvement of Occupational Safety and Health and the Reduction of Accidents, dated 22 April 2005; Spanish Occupational Safety and Health Strategy, 2005–08; National Programme of Reforms in Spain, approved on 13 October 2005; and the National Plan of Priority Actions to Reduce Accidents, 2006. The Committee notes that the objective of these instruments is in all cases to improve working conditions, achieve higher levels of occupational safety and health and reduce occupational accidents and occupational diseases. The Committee considers that the above instruments contribute to the improved implementation of *Article 4* of the Convention. ***In this***

respect, the Committee requests the Government to provide information on the measures adopted in accordance with the instruments referred to above and their impact in practice.

4. *Article 9. Penalties.* The Committee notes the brief information provided by the Government on the application of Instruction No. 104/2001 on the relations between the Labour and Social Security Inspectorate and the Office of the Public Prosecutor regarding criminal offences in the field of occupational safety and health. It notes that, under the terms of the above Instruction, a total of 621 and 579 cases were referred to the Public Prosecutor in 2004 and 2005, respectively. The Committee recalls that in its previous comment it requested the Government to provide additional and detailed information on the manner in which the Convention is applied at the enterprise level, including extracts of labour inspection reports and the number and nature of the contraventions reported. ***Accordingly, and taking into account the fact that the Government confined itself in its last report to providing information on the number of cases referred to the Public Prosecutor in the years 2004 and 2005, the Committee requests the Government to provide additional and detailed information in its next report on the manner in which the Convention is applied at the enterprise level, including extracts of labour inspection reports and the number and nature of the contraventions reported.***

5. The Committee notes with interest the information provided by the Government that section 3 of Act No. 4/2000 of 11 January 2000, on the rights and freedoms of foreign nationals in Spain and their social integration, provides that foreign nationals may exercise the rights acknowledged by the Act on an equal footing with Spanish nationals. It notes that the legislation governing occupational safety and health conditions is applicable equally to national and foreign workers. It also notes the information provided by the Government that Act No. 31/1995 on the prevention of occupational risks is of universal application and that it covers all working relationships irrespective of their specific legal status. It notes with interest the efforts that are being made by the public administration to disseminate and promote the legislation on the prevention of occupational risks and the culture of prevention to migrant workers through the publication and dissemination of educational materials in various languages. The Committee also notes with interest that the Spanish Observatory on Racism and Xenophobia started operating on 21 March 2006, as a body attached to the General Directorate of Immigration in the Secretariat of State for Immigration and Emigration of the Ministry of Labour and Social Affairs, and that it will undertake a specific analysis of the situation in society with regard to racial discrimination, adopt the necessary measures to prevent this type of discrimination and contribute to developing a more just and egalitarian society. The Committee also notes the information provided by the Government that there was an increase in the number of inspections carried out by the Labour and Social Security Inspectorate in 2005 in the province of Almeria in relation to the prevention of occupational risks. With regard to the situation of Moroccan workers in El Ejido in Almeria, the Committee notes the Government's indication that specific inspection campaigns are planned on the working conditions of foreign workers (the payment of taxes and contributions, hours of work, training and information on the prevention of occupational risks and the applicable collective agreement). ***The Committee requests the Government to provide any document issued by the Spanish Observatory on Racism and Xenophobia relating to discrimination in the workplace and information on the results of the specific inspection campaigns relating to the working conditions of foreign workers. The Committee also requests the Government to keep it informed of any development relating to the broad application of the legislation to all workers in the country.***

Sweden

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1982)

1. The Committee notes the information contained in the Government's report, including the amendments to the Work Environment Act (up to and including SFS 2003:1099) ("WEA"), to the Work Environment Ordinance (up to and including SFS 2003:791), and the new Work Environment Authority (Standing Instructions) Ordinance (SFS 2000:1211) including amendments (up to and including SFS 2002:755), which all give further effect to the Convention. The Committee notes with interest the reconstitution in 2001 of the National Board of Occupational Safety and Health and the Labour Inspectorate into a single national authority – the Work Environment Authority, which gives further effect to *Article 15 of the Convention*.

2. *Articles 4 and 5 of the Convention. Consultations for the formulation, implementation and periodical review of a coherent national policy on occupational safety, occupational health and the working environment.* The Committee recalls the observations of the Swedish Trade Union Confederation (LO) that, as a result of a Government resolution, the central parties on both sides had not been represented on the regional supervisory bodies and that complying with the requirements of *Articles 4 and 5 of the Convention* had become increasingly difficult. The Committee notes that the Government in its reply underscores that, according to the national legislation (section 2, point 10, of the WEA) "in particular the Work Environment Authority shall promote cooperation with the employers and the employees in the work environment context". ***Against the background of the observations of LO, the Committee would be grateful if the Government would provide further information on the application of relevant national legislation in practice, in particular as regards actual consultations held with the most representative organizations of employers and workers for the formulation, implementation and periodical review of a coherent national policy on occupational safety, occupational health and the working environment.***

3. The Committee is raising certain other points in a request addressed directly to the Government.

Tunisia

Maximum Weight Convention, 1967 (No. 127) (ratification: 1970)

The Committee notes the information contained in the Government's report to the effect that a draft Order amending the Order of 5 May 1988 determining the maximum weight that may be transported by a single worker is the subject of consultation with the technical services concerned, and with employers' and workers' organizations. The Government adds that this draft text takes into account the observations made by this Committee and that a copy of the Order will be communicated to the ILO as soon as it is published in the *Official Journal*. ***In view of the time that has elapsed, the Committee trusts that the draft Order referred to above will be adopted in the very near future to give full effect to the provisions of Articles 3 and 7 of the Convention, on which the Committee has been commenting for several years.***

[The Government is asked to report in detail in 2007.]

Uganda

Asbestos Convention, 1986 (No. 162) (ratification: 1990)

1. 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 3, paragraph 1, of the Convention. National laws or regulations on asbestos.* The Committee notes the Government's indication that the Factories Act is being modified to become the draft Occupational Safety and Health Bill, which is yet to be passed by Cabinet. Although the draft Occupational Safety and Health Bill does not contain specific provisions on asbestos, it covers all hazardous materials. In this regard and further to its previous comments, the Committee recalls that *Article 3, paragraph 1*, of the Convention, calls for the adoption of specific legislation prescribing measures to be taken for the prevention and control of, and protection against, health hazards due to occupational exposure to asbestos. Due to the time elapsed since the ratification of the Convention, the Committee hopes that the Government will take the necessary measures, in consultation with the most representative organizations of employers and workers concerned, in accordance with *Article 4*, of the Convention, to proceed to the adoption of laws or regulations ensuring effective application of the Convention. ***The Committee hopes that the next report of the Government will indicate the progress accomplished in this respect.***

2. *Part V of the report form. Practical application.* The Committee notes the Government's indication that many steps still need to be taken to incorporate the provisions of the Convention into both national law and practice. ***In this regard, the Committee reminds the Government of the possibility to request technical assistance from the Office to overcome the existing obstacles.***

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

Ukraine

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1970)

1. The Committee notes the information contained in the Government's report. It notes the adoption of Decree No. 209 of 27 September 2004, by the State Committee for Technical Regulation and Consumer Policy, and the implementation of Technical Regulations on Ensuring Conformity in the Safety of Machines and Mechanical Equipment No. 1339/9938 of 20 October 2004 by the Ministry of Justice. The Committee also notes the information that several other technical regulations and standards are in the process of being developed. ***The Committee requests the Government to provide with its next report copies of the legislation referred to above, as well as copies of any new legislation which may have been adopted and which is relevant for the application of the Convention.***

2. *Article 2, paragraphs 3 and 4, Articles 7 and 9, Article 10, paragraph 1, Article 11 and Article 15, paragraph 2, of the Convention.* The Committee notes that the Government is currently developing technical regulations and standards, in accordance with Decree No. 123-r of 4 March 2004 by the Cabinet of Ministers of Ukraine, and the Action Plan for drawing up national standards harmonized with International and European standards, for ensuring conformity (certification) of industrial production for 2004–11, as well as the information that 96 EN and ISO standards of a total of 551 have been adopted as national standards. The Committee hopes that the adopted standards will give effect to *Article 2, paragraphs 3 and 4, Articles 7 and 9, Article 10, paragraph 1, Article 11 and Article 15, paragraph 2*, of the Convention. ***It requests the Government to provide with its next report copies of the most relevant standards and regulations for the application of the Convention.***

3. *Part VI of the report form. Observations from the Federation of Trade Unions of Ukraine (FTUU).* The Committee refers to its previous observation where it requested the Government to send a reply on the observations made by the FTUU concerning the application of this Convention. The Committee notes that the Government's report is silent on this question and recalls that in its observations the FTUU stated that the requirements of the provisions of the Convention were reflected in the workers' protection laws and that they were generally respected but that, unfortunately, due to the difficult financial situation in the country, more than 800 machines, mechanisms and pieces of equipment

currently used in certain enterprises were not in conformity with the technical safety requirements, mainly due to the absence of protective devices or features. Their use therefore constituted a potential danger to those working in these enterprises. *The Committee would be grateful if the Government would respond to the observations by the FTUU.*

[The Government is asked to reply in detail to the present comments in 2007.]

Bolivarian Republic of Venezuela

Maximum Weight Convention, 1967 (No. 127) (ratification: 1984)

1. *Article 8 of the Convention. Consultation with the most representative organizations of employers and workers concerned.* The Committee notes the information contained in the Government's report. It notes with interest the adoption of the Organic Act on Prevention, Working Conditions and the Working Environment (LOPCYMAT) of 26 July 2005. It also notes with interest the 2003 activity report of the National Occupational Prevention, Health and Safety Institute (INPSASEL) which deals, amongst other things, with the issue of tripartite participation in occupational health and safety activities (

2. *Article 3. Maximum weight of loads to be transported manually by a worker.* With reference to section 223(2) of the Occupational Hygiene and Safety Regulations of 1973, which provides that the maximum permissible weight to be transported by a worker shall be 50 kg, the Committee asked the Government, in its previous comments, to provide information on the application of these regulations in the non-industrial sector. The Committee notes the Government's reference to the LOPCYMAT, which is applied to different economic sectors and the scope of which will be widened once new regulations are adopted. *The Committee hopes such regulations will be adopted in the very near future and requests the Government to submit a copy of them with its next report.*

3. *Article 5. Training in working techniques for workers assigned to manual transport of loads.* The Committee notes the Government's reference to a manual that regulates the training, instruction and information provided to workers. *The Committee requests the Government to submit a copy of this manual with its next report.*

4. *Part IV of the report form. Application of the Convention in practice.* The Committee notes that the statistics do not reflect the current situation in respect of violations of laws or regulations on the manual transport of loads. *The Committee hopes that the Government will soon be in a position to establish such statistics, and that they will contain information on the number of workers covered by the measures adopted in the application of the Convention, and the number and nature of violations reported. The Committee also requests the Government to provide extracts of inspection reports.*

5. The Committee is raising certain other points in a request addressed directly to the Government.

Zimbabwe

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2003)

1. The Committee notes that in a communication in September 2005, the International Confederation of Free Trade Unions (ICFTU) on behalf of the Zimbabwe Congress of Trade Unions (ZCTU) submitted observations concerning the application by Zimbabwe of a series of Conventions including Conventions Nos. 155, 161, 162, 170 and 176, and that in a communication transmitted in December 2005, the Government responded thereto. As regards the issues raised in this context regarding the absence of chemical registers in Zimbabwe, the Committee refers to its observations this year concerning the application by Zimbabwe of the Chemicals Convention, 1990 (No. 170).

2. *Article 9, paragraph 2, of the Convention. Adequate penalties for violations of the laws and regulations.* The Committee notes the observations by the ZCTU that the penalties and fines for non-compliance with the law on occupational health are too low, which is why most employers do not attribute sufficient importance to issues related to occupational safety and health and that the Government in its response thereto states that it has taken note of the recommendation to increase the penal sanctions for non-observance of the national law on occupational health. *The Committee requests the Government to provide information on all measures taken to follow up on the recommendation by the ZCTU and to give full effect to this Article of the Convention.*

3. The Committee is raising certain other points in a request addressed directly to the Government.

Chemicals Convention, 1990 (No. 170) (ratification: 1998)

1. The Committee notes the information contained in the Government's report.

2. *Article 6, paragraph 1, of the Convention. Classification systems.* With reference to its previous comments the Committee notes the observations submitted by the International Confederation of Free Trade Unions (ICFTU) on behalf of the Zimbabwe Congress of Trade Unions (ZCTU) in which concerns were raised regarding the absence of a chemicals register which should monitor the inflow of chemical substances into the country and, more generally, that the penalties for non-compliance with laws on occupational health are too low and ought to be such as to act as an effective deterrent against the violation of occupational safety and health laws. The Committee notes that, in a brief response received in

2006 to these observations, the Government indicates that the issue of a chemicals register is undertaken at enterprise level in line with the Hazardous Substances and Articles Act, 1971. The Committee notes that the legislation referred to contains provisions related to the declaration and regulation of hazardous substances and articles, but that it does not appear to prescribe systems and specific criteria for the classification of all chemicals according to the type and degree of their intrinsic health and physical hazards and for assessing the relevance of the information required to determine whether a chemical is hazardous. ***Against this background, and in addition to the request for information already transmitted to the Government in its comment in 2005, the Committee requests the Government to provide additional information on how effect is given to this Article of the Convention, in law and in practice.***

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 13** (Afghanistan, Argentina, Cambodia, Comoros, Côte d'Ivoire, Finland, France: French Polynesia, Guinea, Lao People's Democratic Republic, Madagascar, Sweden, Bolivarian Republic of Venezuela); **Convention No. 45** (Afghanistan, Côte d'Ivoire, France: Guadeloupe, Ghana, Guyana, Haiti); **Convention No. 62** (Democratic Republic of the Congo, Egypt, France: French Guiana, France: Guadeloupe, France: Martinique, France: Réunion, Guinea, Spain); **Convention No. 115** (Argentina, Azerbaijan, Belize, Chile, Greece, Guyana, Hungary, Mexico, Russian Federation, Slovakia, Turkey); **Convention No. 119** (Brazil, Cyprus, Dominican Republic, Ecuador, Finland, Italy, Kuwait, Malta, Niger, San Marino, Slovenia, Sweden); **Convention No. 120** (Bolivia, Finland, France: French Polynesia, Ghana, Iraq, Sweden, Ukraine); **Convention No. 127** (Algeria, Costa Rica, France: French Polynesia, Hungary, Malta, Republic of Moldova, Panama, Portugal, Bolivarian Republic of Venezuela); **Convention No. 136** (Brazil, Chile, Côte d'Ivoire, France: Guadeloupe, Greece, Guinea, Guyana, Iraq, Kuwait, Malta, Nicaragua, Slovakia, Spain, Uruguay, Zambia); **Convention No. 139** (Afghanistan, Denmark, France, Germany, Guyana, Hungary, Nicaragua, Peru, Slovakia, Sweden, Bolivarian Republic of Venezuela); **Convention No. 148** (China: Hong Kong Special Administrative Region, Croatia, Czech Republic, Egypt, Finland, France, Germany, Ghana, Guinea, Hungary, Kyrgyzstan, San Marino, Sweden); **Convention No. 155** (Belize, Cape Verde, Cyprus, Czech Republic, Denmark, Finland, Hungary, Iceland, Ireland, Kazakhstan, Slovakia, Sweden, Zimbabwe); **Convention No. 161** (Burkina Faso, Croatia, Finland, Germany, Guatemala, Hungary, Slovenia, Sweden, Uruguay, Zimbabwe); **Convention No. 162** (Bolivia, Canada, Cyprus, Spain, Zimbabwe); **Convention No. 167** (China, Czech Republic, Denmark, Dominican Republic, Finland, Germany, Guatemala, Hungary, Iraq, Norway, Sweden); **Convention No. 170** (Brazil, Burkina Faso, Italy, Republic of Korea, Mexico, United Republic of Tanzania); **Convention No. 174** (Brazil, Sweden); **Convention No. 176** (Botswana, Norway, Slovakia, Zambia, Zimbabwe).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 119** (Denmark, Norway).

Social Security

Antigua and Barbuda

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1983)

For many years the Committee has been drawing the Government's attention to the fact that the national legislation (Workmen's Compensation Ordinance, No. 24 of 1956, as amended) on compensation for occupational accidents does not allow full effect to be given to the Convention. In its last report, the Government indicates that actions are currently being taken to ensure that revisions to national legislation are made. ***The Committee takes due note of this information and hopes that, in its next report, the Government will indicate the measures that have been taken in order to ensure the conformity of national legislation and practice with the following provisions of the Convention.***

Article 5 of the Convention. Section 8 of the Workmen's Compensation Ordinance, No. 24 of 1956, should be amended 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, provided that it may be paid wholly or partially in a lump sum, if the competent authority is satisfied that it will be properly utilized.

Article 7. This provision of the Convention provides for additional compensation for victims of injuries who need the assistance of a third person. However, section 9 of the above Ordinance provides for additional compensation only in the event of temporary incapacity.

Article 9. According to section 6(3) of the above Ordinance, the employer is responsible for paying the "expenses and reasonable cost" of medical treatment undergone by a worker as a result of an occupational accident up to a prescribed amount, whereas the Convention does not prescribe any limits in such cases. Furthermore, the legislation does not appear to make express provision for surgical and pharmaceutical costs, contrary to this Article of the Convention. ***The Committee therefore asks the Government to take the necessary steps to give full effect to this provision of the Convention.***

Article 10. The Committee notes that the legislation does not ensure the provision of surgical appliances and artificial limbs in general. Section 10 of the abovementioned Ordinance provides for the supply of artificial limbs only when this is likely to improve the earning capacity. The Committee recalls that this provision of the Convention requires surgical appliances and artificial limbs to be supplied in all cases in which they are recognized as necessary, and not only with a view to improving the earning capacity. ***The Committee therefore asks the Government to take the necessary measures to bring its legislation into full conformity with this Article of the Convention.***

Cape Verde

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1987)

With reference to its previous comments, the Committee notes the information contained in the Government's report received in October 2005 and the communication of the Cape Verde Confederation of Free Trade Unions (CCSL) forwarded by the Office to the Government in November 2004. In this communication, the CCSL indicates important changes made in the social security system for dependent workers by the adoption of Legislative Decree No. 5/2004 of 16 February 2004, which was promulgated by the Government without prior consultation with the social partners. The Committee notes that the revision of the social security system undertaken by the Government seems to have no impact on Legislative Decree No. 84/78 of 22 September 1978 establishing the compulsory insurance scheme for industrial accidents which has since been the subject of comments by the Committee.

Branch (g) (benefits for industrial accidents and occupational disease). In its previous comments, the Committee requested the Government to amend explicitly section 3(3) of Legislative Decree No. 84/78 of 22 September 1978 establishing the system of compulsory insurance against industrial accidents, which subjects equality of treatment of foreign workers working in Cape Verde to a condition of reciprocity, whereas *Articles 3 and 4* of the Convention provide for an automatic system of reciprocity for States that have ratified the instrument. In reply, the Government promises that these amendments will be the subject of consultations with the social partners and be included in the current general revision process of labour legislation with the adoption of the new Labour Code.

The Committee notes this promise by the Government and requests it to specify to what extent the amendment of Legislative Decree No. 84/78 concerns the general revision of labour legislation, given that the Labour Code currently in force does not cover matters pertaining to insurance against industrial accidents nor the social security of workers in general. As for the Government's intention to consult the social partners, the Committee notes from the social partners' comments included in the Government's report that the National Union of Cape Verde Workers (UNTC-CS) and the Cape Verde Confederation of Free Trade Unions (CCSL) support the revision of section 3(3) of Legislative Decree No. 84/78 which is in accordance with the provisions of the Convention. ***The Committee requests the Government to indicate***

the employers' and workers' organizations which the Government intends to consult and in what time frame, given that it does not specify the employers' and workers' organizations to which it supplied copies of its report, in accordance with article 23, paragraph 2, of the ILO Constitution. Finally, the Committee recalls that in 1999 the Government indicated that internal discussions had reached total consensus on the need to amend Legislative Decree No. 84/78, but that no amendment has been made. *The Committee is therefore bound to ask the Government once again to take the measures necessary, as soon as possible, to bring section 3(3) of Legislative Decree No. 84/78 into full conformity with the Convention.*

Article 5. In its previous comments, the Committee asked the Government to incorporate in Legislative Decree No. 84/78 of 22 September 1978 a specific provision providing the granting of benefits for employment injuries when the persons concerned are resident abroad in order to give full effect to *Article 5 (branch (g))* of the Convention. The Committee notes that according to section 7 of Legislative Decree No. 5/2004 of 16 February 2004, beneficiaries of compulsory social protection maintain their right to cash benefits when they transfer their residence abroad, subject to the provisions established by the law and the applicable international instruments. *Since the compulsory social protection system does not include benefits for employment injury, which are covered by separate regulations (sections 17 and 18(3) of Legislative Decree No. 5/2004), the Committee trusts that the Government will not fail to apply the same principle of maintaining rights in the event of residence abroad also in regard to the granting of benefits for employment injury in law as well as in practice.* With regard to the situation in law, the Committee considers that the application of article 11(4) of the Constitution of Cape Verde establishing the supremacy of international conventions over any national legislation requires that Legislative Decree No. 84/78 be brought specifically into conformity with *Article 5* of the Convention in order to avoid any ambiguity in legislation and its practical application. *Not having received from the Government the information requested on the internal regulations laying down procedures giving effect in practice to this constitutional principle in the light of Convention No. 118, the Committee also requests the Government to supply information showing the effective transfer by the National Social Security Institute or another relevant institute of the amounts of benefits for employment injury to beneficiaries residing abroad.*

Chile

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1999)

The Committee notes the detailed information provided by the Government in its report for the period ending 31 August 2005, received in February 2006. It also notes the information sent by the Government in response to the comments submitted by the Autonomous Confederation of Workers of Chile (CAT), the Latin American Central of Workers (CLAT) and the World Confederation of Labour (WCL) alleging, among other things, the failure to apply certain provisions of Convention No. 121 to the workers of *CODELCO Chile – División Andina* who have suffered total or partial work incapacity due to silicosis.

The Government indicates, in response to the concerns expressed by the above organizations, that: (a) 50 per cent of the 115 decisions by the health services (COMPIN), which found that silicosis was the cause of invalidity, were declared as being without basis by the health authority. Only 9 per cent of CODELCO's active workers suffer from silicosis and not 28 per cent as is alleged; (b) the measures taken in accordance with legislation resulted in lower levels of exposure to silica between 1999 and 2004; (c) no worker was terminated with the intention of hiding the problem; those workers who expressed their concern were able to take advantage of voluntary retirement plans; (d) the División Andina is authorized to act as a delegated social insurance administrator in matters of occupational hazards pursuant to section 72 of Act No. 16.744 and section 23 of Supreme Decree No. 101; (e) CODELCO allowed inspection authorities to enter its premises and is not exempt from Chilean law; (f) it is not more advantageous to allow workers to be exposed to the risks of silica than to invest in preventative measures. Workplace accidents imply for the employer the payment of medical benefits and the costs associated with work incapacity; (g) around 50 per cent of those workers diagnosed by computer-assisted axial tomography and x-ray do not actually suffer from silicosis. The COMPIN decisions were in error for using inadequate diagnostic instruments. Of the 13 appeals lodged by CODELCO with the Comere (appellate body), it was found that 11 individuals did not have silicosis: on appeal, the Social Security Superintendent determined that ten of the decisions nullifying the initial diagnoses were justified; (h) with regard to other cases, the Government indicates that four are currently under judicial consideration; (i) it also provides information on the measures adopted in applying section 184 of the Labour Code, 71 and 72 of Act No. 16.744 and 72 of Supreme Decree No. 594 of 1999; (j) *CODELCO–Chile* and all of its workplaces are in conformity with the relevant legal provisions, as demonstrated by the lack of violations registered by the competent authorities. In this respect, the Government points to a judgement from the Court of Appeal of Valparaíso on a protective appeal by a member of Parliament which was confirmed by the Supreme Court, in which three inspection services provided information that CODELCO had no existing infractions or fines.

The Committee notes this information. It notes, according to the Government, that 9 and not 28 per cent of CODELCO workers suffer from silicosis. The Committee considers that this still represents a high number of workers affected by silicosis and thereby constitutes a high risk. It hopes the Government will continue to take preventative measures in order to reduce to the minimum possible the levels of exposure to silica. *The Committee asks the*

Government to provide, in conformity with Article 26 of the Convention, detailed information on the measures taken in this regard, as well as information on the inspections carried out in the mining sector and the corresponding reports and findings. The Government is further requested to provide information on the rehabilitation measures taken in order to prepare incapacitated workers to resume their previous activities or, if this is not possible, to perform an alternative gainful activity suitable to their aptitudes and capacity. Lastly, the Committee asks to be kept informed of all developments in the cases previously mentioned by the Government that are under judicial consideration.

The Committee will examine the Government's report at its next session together with the information submitted by the Government in its next regular report due in 2007.

Democratic Republic of the Congo

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1987)

In response to the comments that the Committee has been making for several years concerning the harmonization of the national legislation with the requirements of the Convention as regards *Part X (Survivors' benefit)*, *Articles 60 to 64*, and *Part XIII (Common provisions)*, *Articles 70 and 71, paragraph 1 (in relation with Part VII (Family benefit), Article 39)*, of the Convention, the Government indicates that the Ministry of Labour and Social Insurance has taken steps to convene the 30th Session of the National Labour Council with a view to examining and adopting draft legislation to issue a Social Security Code. In this situation, the Committee suggests that the Government might have recourse to ILO technical assistance to ensure that the above draft legislation contains provisions giving effect to the above requirements of the Convention. Furthermore, the Committee notes that the Government has not complied with its obligation to provide a *detailed* report in 2006 containing the information and statistics requested in the report form on the Convention adopted by the Governing Body of the ILO. *The Committee therefore requests the Government to supply a detailed report for examination at its next session in November–December 2007, also containing full particulars of the progress made in the work of the National Labour Council and other bodies involved in the process of adopting the new Social Security Code.*

[The Government is asked to report in detail in 2007.]

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1967)

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

In reply to the Committee's previous comments, the Government had stated previously that it is not in a position to provide information that would enable the Committee to assess the application of Articles 13, 14 and 18 (in relation with Articles 19 and 20), as well as Articles 21, 23 and 24(2) of the Convention, in view of the difficult political and economic situation experienced by the country. With regard to the draft text to add to the schedule of occupational diseases, in accordance with Article 8 of the Convention, diseases caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series and diseases caused by benzene or its toxic homologues, the Government had undertaken to transmit the extended schedule of occupational diseases as soon as it has been adopted by the National Labour Council.

The Committee hopes that, despite the difficulties to which the Government is confronted, the extended schedule of occupational diseases will be adopted in the near future in order to give full effect to Article 8 of the Convention and that the Government will make every effort to provide information concerning the application of the other provisions of the Convention referred to above, as requested in its 1995 observation. The Committee would also be grateful if the Government would indicate any progress achieved in the formulation and adoption of the new Social Security Code.

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

France

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1974)

The Committee notes the information provided in the Government's report in response to its previous comments.

Article 4, paragraph 1, of the Convention. Under section L.311-1 of the Social Security Code, the social insurance of the general scheme cover risks and expenses relating to illness, invalidity, old age, death, widowhood, maternity and paternity, under the conditions set forth in the subsequent sections. With regard to foreign workers, section L.311-7 provides that, with the exception of old-age insurance benefits, the receipt of these benefits is conditional upon justification of their residence in France. In its previous comments, the Committee noted that the condition of residence for the provision of benefits also applies to foreign nationals insured under the agricultural scheme (section 1027 of the Rural Code) and the mines scheme (section 184 of Decree No. 46-2769 of 27 November 1946), that the condition of residence in France must be fulfilled particularly when entitlement is acknowledged and that it primarily affects nationals of countries which have not concluded a bilateral agreement with France. With regard to the receipt of benefits, the

Committee recalls that, under *Article 4, paragraph 1*, of the Convention, equality of treatment shall be accorded without any condition of residence, which includes the initial acknowledgement of entitlement, to nationals of all member States that have accepted the requirements of the Convention and not only to nationals of countries that have concluded a reciprocal bilateral or multilateral agreement. In this respect, the Committee recalls that the Council of State, Litigation Section, in its ruling of 23 April 1997 (23 April 1997, Information and Support Group for Migrant Workers – GISTI), found that *Article 4, paragraph 1*, of the Convention is directly applicable in French internal procedures. ***The Committee asks the Government to indicate the legal scope and the effect in practice of the decisions adopted by the Council of State. Moreover, the Committee once again hopes that the Government will take the necessary steps to ensure the application of this provision of the Convention, both in law and in practice, in respect of all the branches of social security covered by the Convention which have been accepted by France and, in particular, branch (d) (invalidity benefit), which was referred to in the Committee's previous comments, in all cases in which the insured person is covered by the French social security system and fulfils the general conditions for entitlement to invalidity benefit at the time of the contingency.***

Germany

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1971)

The Committee notes the communication of the German Confederation of Trade Unions (DGB), dated 8 September 2006. It also notes the Government's reply to the DGB's communication, dated 7 November 2006. In the view of the Committee, the observations made by the DGB refer to: (a) branches in respect of which the obligations of this Convention have not been accepted by Germany (invalidity benefit, old-age benefit, survivors' benefit and family benefit); and (b) employment services and employment promotion benefits which do not fall under the scope of the Convention.

Guinea

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1967)

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

Article 5 of the Convention. The Committee recalls that the Government, in its earlier reports, indicated that the new Social Security Code, when adopted, would give full effect to *Article 5* of the Convention under which the provision of old-age benefits, survivors benefits and death grants, and employment injury pensions must be guaranteed in the case of residence abroad, irrespective of the country of residence and even in the absence of agreements with such country, both to nationals of Guinea and to nationals of any other State which has accepted the obligations of the Convention for the corresponding branch. However, in its last report, the Government indicates that the new Social Security Code does not entirely fulfil the requirements of the provisions of *Article 5* of the Convention, in that it does not provide for maintenance of payment of the various benefits in case of change of residence, and that this restriction is a constant feature of the legislation governing the field in the States in the subregion. However, the Government hopes that further negotiation of bilateral agreements with other States will make good this weakness in the Social Security Code.

In this connection, the Committee notes that under section 91, paragraphs 1 and 2, of the new Code, benefits are cancelled when the beneficiary definitively leaves the territory of the Republic of Guinea, or are suspended while she or he is not resident on national territory. It notes however that, under the last paragraph of that section, these provisions "are not applicable in the case of nationals of countries which have subscribed to the obligations of the international Conventions of the International Labour Office regarding social security ratified by the Republic of Guinea, or where there are reciprocal agreements or multilateral or bilateral social security agreements on the provision of benefits abroad". ***Since, by virtue of this exception, the nationals of any State which has accepted the obligations of Convention No. 118 for the corresponding branch, may in principle now claim benefits in case of residence abroad, the Committee requests the Government to indicate whether this is in fact the case and, if so, whether a procedure for the transfer of benefits abroad has been established by the national social security fund, to meet the possible demands for such foreign transfer. In addition, the Committee requests the Government to state whether the exception provided in the last paragraph of section 91 is also applicable to Guinean nationals in the event of their transferring their residence abroad, in accordance with the principle of equal treatment established under Article 5 of the Convention as regards the payment of benefits abroad.***

Article 6. With reference to the comments it has been formulating for many years regarding the provision of family allowances in respect of children residing abroad, the Committee notes that, under section 94, paragraph 2, of the new Code, to obtain the right to family allowances, dependent children "must reside in the Republic of Guinea, subject to the special provisions of the international Conventions on social security of the International Labour Office, reciprocal agreements or bilateral or multilateral agreements". With respect to reciprocal agreements or bilateral or multilateral agreements, the Committee recalls that to date Guinea has concluded no agreement of this sort for the payment of family allowances in respect of children residing abroad. Regarding the special provisions of the ILO Conventions, it recalls that under *Article 6* of Convention No. 118 any State which has accepted the obligations of the Convention for *branch (i)* (family benefit) must guarantee payment of family allowances both to its own nationals and to the nationals of any other member which has accepted the obligations of this Convention for that branch, as well as for 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. In this connection, the Government states in its report that the payment of family benefits is guaranteed to families of whom the breadwinner has been regularly

insured by the social security system, and is in order regarding the payment of his own contributions, and those of his successive employers. *The Committee therefore hopes that the Government will be able to confirm formally in its next report that the payment of family allowances will also be extended to cover insured persons up to date with their contributions, whether they are nationals, refugees, stateless persons or nationals of any other States which have accepted the obligations of the Convention for branch (i), whose children reside on the territory of one of these States and not in Guinea. The Committee would also like to know in these cases how the condition of residence is dispensed with for the application of section 99, paragraph 2, of the new Code, which only recognizes as dependent those children "that live with the insured person", and also for section 101, which makes payment of family allowances subject to an annual medical examination of the child, up to the age where she or he comes under the school medical service, and the regular medical care for beneficiaries of school age attending courses in educational or vocational training establishments.*

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

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1967)

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

1. *Article 8 of the Convention. The Committee asks the Government to provide a copy of the list of occupational diseases revised in 1992, indicating whether it is now in force.*

2. *Article 15(1).* In answer to the Committee's previous comments, the Government indicates that, in accordance with the provisions of section 111 of the Social Security Code, periodical payments for employment injury are converted into a lump sum when the permanent incapacity is at most equal to 10 per cent. The Committee recalls, however, that its comments concerned the possibility of converting the benefit granted in the event of employment injury in the circumstances provided for in sections 114 (conversion after expiry of a five-year period) and 115 of the Social Security Code (conversion into a lump sum of part of the periodical payment at the request of the person concerned). *The Committee again expresses the hope that the necessary measures will be taken to ensure that in all these cases periodical payments may be converted into a lump sum only in exceptional cases and with the consent of the victim where the competent authority has reason to believe that the lump sum will be utilized in a manner which is particularly advantageous for the injured person.*

3. *Articles 19 and 20.* In the absence of the statistical information requested which the Committee needs so that it can determine whether the amount of benefits paid in the event of temporary incapacity, permanent incapacity and death of the breadwinner, reaches the level prescribed by the Convention, the Committee once again asks the Government to indicate whether it avails itself of Article 19 or of Article 20 of the Convention in establishing that the percentages required by Schedule 2 of this instrument have been reached, and to provide the statistical information required by the report form adopted by the Governing Body under Article 19 or 20, depending on the Government's choice.

4. *Article 21.* In view of the importance it attaches to this provision of the Convention which establishes that the rates of employment injury benefits must be reviewed to take account of trends in the cost of living and the general level of earnings, the Committee hopes that the Government's next report will contain information on the amount of the increases already established and that it will not fail to provide all the statistics required by the report form under this Article of the Convention.

5. *Article 22, paragraph 2.* The Committee once again expresses the hope that the Government will be able to take the necessary measures to ensure that, in all cases where employment injury benefits are suspended and particularly in the cases provided for in sections 121 and 129 of the Social Security Code, part of these benefits will be paid to the dependants of the person concerned in accordance with the provisions of this Article of the Convention.

6. The Committee notes the Government's statement that the provisions of the Conditions of Service of the Public Service give public servants and their families full satisfaction as regards social coverage. *It once again asks the Government to provide the text of the provisions of the above Conditions of Service dealing with compensation for employment injury with its next report.*

7. *Lastly, the Committee asks the Government in its future reports to provide information on any progress made in the revision of the Social Security Code, to which the Government referred previously.*

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

Italy

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1967)

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

1. *Articles 3, 4 and 10, paragraph 1, of the Convention.* (a) The Committee notes from the information provided by the Government and the General Confederation of Labour (CGIL) that seasonal workers, who – by virtue of section 5, paragraph 3(b), of Legislative Decree No. 286 of 25 July 1998 (*Testo unico*) – are entitled to a temporary work permit for not more than six or, in special cases, nine months, are no longer covered by the unemployment insurance and family benefit schemes. However, their employer is obliged to pay his share of the corresponding contributions to the National Fund for Migration Policies which provides welfare services to non-Community workers (sections 25 and 45 of Legislative Decree No. 286).

In this respect, the Committee is bound to refer to Articles 3 and 4, paragraph 1, of the Convention under which nationals of a member State which has also ratified the Convention shall be granted equality of treatment with Italian nationals as regards both coverage and the right to benefits in respect of every branch of social security for which Italy has

accepted the obligations of the Convention, without any condition of residence. As Italy has accepted the obligations of the Convention for branches (h) – unemployment benefit and (i) – family benefit, the Committee hopes that the Government will indicate in its next report the measures taken or envisaged to ensure that seasonal workers who are not nationals of a member State of the European Union or the European Economic Area, but are nationals of a State which has ratified the Convention (Bangladesh, Barbados, Bolivia, Brazil, Cape Verde, Central African Republic, Democratic Republic of the Congo, Ecuador, Egypt, Guinea, Guatemala, Iraq, India, Israel, Jordan, Kenya, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mexico, Pakistan, Philippines, Rwanda, Suriname, Syrian Arab Republic, Tunisia, Turkey, Uruguay, Venezuela), as well as refugees and stateless persons, are also granted access to unemployment and family benefits under the same conditions which apply to Italian nationals.

(b) The Committee also notes from the above information that non-Community women workers, in the case of births occurring after 1 July 2000, are entitled to maternity benefit provided by the INPS only if they hold a residence card. The Committee understands from section 9 of Legislative Decree No. 286 of 25 July 1988, that a residence card can only be obtained after at least five years of legal residence in Italy. Such a condition is contrary to *Articles 3 and 4, paragraph 1*, of the Convention. ***The Committee would like the Government to indicate in its next report the measures taken or contemplated to ensure that the maternity benefits provided by the INPS are granted to non-nationals covered by Article 3, paragraph 1, of the Convention, as well as to refugees and stateless persons, under the same conditions as for nationals.***

(c) The Committee notes from the information provided by the Government and the CGIL that foreigners residing in Italy who are not nationals of one of the member States of the European Union or the European Economic Area are, by virtue of section 80(19) of the 2001 Finance Act, No. 388 of 2000, no longer entitled to certain benefits such as the benefits for civilian invalids, the blind and deaf mutes, the social allowance (*l'assegno sociale*), the maternity benefit provided by the communes and the benefit for households with at least three children unless they are holders of a residence card.

The Committee observes that all the above benefits, although means-tested, are nevertheless social security benefits within the meaning of the Convention. It recalls that under Article 1(b) of the Convention, the term “benefits” refers to all benefits, grants and pensions, including any supplements or increments and that, in accordance with Article 2, the Convention covers all branches of social security. The Convention therefore applies to all social security benefits whether they are financed by contributions or by the general tax system. Only public assistance is excluded from the scope of the Convention under Article 10, paragraph 2.

(d) *Paragraph 2(a) to (c) of Article 4* of the Convention, however, provides some flexibility with regard to the principle of equality of treatment, by allowing the national legislation to submit *non-contributory benefits* within the meaning of *Article 2, paragraph 6(a)*, of the Convention, i.e. “benefits other than those the granting of which depends either on direct financial participation by the persons protected or the employer, or on a qualifying period of occupational activity”, to a condition of length of residence, which shall not exceed a period of six months for maternity benefit and unemployment benefit; five consecutive years for invalidity or survivors’ benefit; and ten years, including five consecutive years, for old-age benefit. It therefore appears that the requirement imposed upon non-Community foreign nationals to hold a residence card for certain non-contributory benefits can be considered as acceptable under *Article 4, paragraph 2(b) and (c)*, in the case of the benefit for civilian invalids, the blind and deaf mutes, as well as the social allowance (*assegno sociale*). On the other hand, such a requirement may not be acceptable under the Convention for maternity benefit provided by the communes and benefit for households with at least three children since, under *Article 4, paragraph 2*, no condition of residence specific to foreign nationals can be imposed for family benefits, and the residence requirements admissible for maternity benefit is only six months. ***The Committee therefore requests the Government to indicate in its next report the measures it has taken or envisaged to ensure full application of the Convention on this point.***

(e) The Committee notes that the supplementary contribution of 0.5 per cent payable by non-Community migrant workers to a special fund in the INPS was abolished with effect from January 2000.

2. As regards the provision of social security benefits in case of residence abroad (*Articles 5 to 8* of the Convention), the Committee refers to the request it is addressing directly to the Government.

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

Kenya

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) ***(ratification: 1964)***

The Committee notes that the Government’s report merely indicates that the proposed Work Injury Benefits Insurance Bill of 1990 has been withdrawn and that new draft legislation, a copy of which is not appended to the report, covers the provisions of the Convention. In these circumstances, the Committee is bound to recall that it has, for many years, been drawing the Government’s attention to the need to amend the current national legislation, i.e. the Workmen’s Compensation Act, Chapter 136, as amended in 1987, in order to ensure the full application of *Articles 5* (principle of compensation payable to the injured workman or his dependants in the form of periodical payments), *9* (entitlement to medical aid free of charge and to such surgical and pharmaceutical aid as is recognized to be necessary in consequence of accidents), *10* (supply and normal renewal, by the employer or insurer, of such artificial limbs and surgical appliances as are recognized to be necessary), and *11* (guarantees in the event of the insolvency of the employer or insurer) of the Convention. ***The Committee therefore expresses the hope that the Government will take without further delay the measures needed in order to give full effect to the above provisions of the Convention. It would also like to draw the Government’s attention to the possibility of availing itself of the technical assistance of the Office in order to seek the early solution of all the problems involved.***

[The Government is asked to reply in detail to the present comments in 2007.]

Malaysia

Peninsular Malaysia

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1957)

Article 2 of the Convention. Under the terms of this provision of the Convention, national laws and regulations as to workmen's compensation shall apply to workmen, employees and apprentices employed by any enterprise, undertaking or establishment of whatsoever nature, whether public or private. The exceptions authorized are enumerated in a limitative manner in the second paragraph of this Article and concern persons whose employment is of a casual nature who are not part of the employer's business, out-workers, members of the employer's family (under certain conditions) and non-manual workers whose remuneration exceeds a limit to be determined by national laws or regulations.

In Malaysia, although the application of the Employees' Social Security Act, 1969, has progressively been extended to an increasingly high number of persons, certain categories of workers are still excluded from compulsory coverage by the social security system. In practice, persons receiving a wage that exceeds a certain ceiling, currently set at RM3,000 (previously RM2,000) are exempted from the obligation of coverage by the social security system, without the above legislation making a distinction, as is done in the Convention, between manual and non-manual workers. According to the information provided previously by the Government, the legislation authorizes workers, once they are covered by the system, to remain covered, even when their wage subsequently exceeds the above ceiling. Moreover, according to the statistics provided previously, most manual workers receive wages which do not exceed RM2,000 (the ceiling, which has since been increased to RM3,000), and therefore lie within the scope of the Employees' Social Security Act, 1969.

The Committee notes with interest the adjustment of the wage ceiling for the purposes of the social security system which has the effect of extending the number of persons benefiting from compulsory coverage under the employment accident scheme. *It would be grateful if the Government would provide with its next report copies of the texts providing for the above adjustment and statistical data on the consequences of the new wage ceiling on the number of persons benefiting from the social security system, particularly with regard to manual workers. Furthermore, the Committee requests the Government to provide statistical data on the average wage levels in the country in the various economic sectors for different categories of workers, and to specify the number of manual workers who may still be excluded from the social security scheme by reason of receiving wages above the ceiling.*

The Committee is also raising other matters in a request addressed directly to the Government.

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1957)

In its previous comments, the Committee requested the Government to provide information on the measures taken to ensure that foreign workers (and their dependants) who are nationals of countries that have ratified the Convention receive the *same compensation* as that granted to national workers in the event of occupational accidents. The Government indicates in its last report that, while it understands the Committee's concern, it is of the view that the current arrangement of separate workers' compensation systems for local and foreign workers appears to function in a satisfactory manner and that the compensation payable to foreign workers is not inferior to that payable to Malaysian workers. The Government adds that a policy decision needs to be taken before the issue of non-conformity with the Convention is addressed.

The Committee regrets to note that the Government has not taken any measures to bring the national legislation into conformity with the Convention. It reiterates that the national legislation, which establishes, in case of employment injury, the principle of differing treatment between national and foreign workers, is not consistent with the Convention. In Malaysia, in the event of an employment accident, benefits are provided through two distinct national laws. By virtue of the Employee's Social Security Act, 1969, national workers are entitled to a pension, whereas according to the Workmen's Compensation Act, 1952, foreign workers are entitled to a lump-sum payment. Furthermore, the conditions governing affiliation to insurance against employment accidents differ between national workers (compulsory insurance when earnings are below RM3,000) and foreign workers (exclusion from compulsory insurance of non-manual workers earning over RM500).

The Committee is therefore bound once again to recall that, by virtue of *Article 1, paragraphs 1 and 2, of the Convention*, each Member which ratifies the Convention undertakes to grant, without any condition as to residence, to the nationals of any other Member which has ratified the Convention who suffer employment injury in its territory, or to their dependants, the *same treatment* as that granted to its own nationals in respect of workers' compensation. The Committee considers that, since the compensation payable to foreign workers under the Workmen's Compensation Act is not considered to be inferior to that payable to national workers, all workers, whether they are nationals of Malaysia or foreign nationals, could be allowed to decide which of the two systems they prefer for their own personal coverage. Such a measure would be consistent with the fundamental principle established by the Convention, according to which States parties must implement the *principle of equal treatment* in respect of workmen's compensation between their own nationals and foreign workers (nationals of any other Member which has ratified the Convention), and have to ensure that

it is possible for foreign workers or their dependants who suffer employment injury and return to their countries of origin to receive the payments abroad under special arrangements. *The Committee accordingly expresses the firm hope that the Government will re-examine the matter and provide information in its next report on the measures taken or envisaged to bring the national law and regulations into conformity with the Convention. It also requests the Government to provide detailed statistical information on the number and nationalities of foreign workers employed in the country.*

[The Government is asked to reply in detail to the present comments in 2007.]

Sarawak

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

In its previous comments, the Committee requested the Government to provide information on the measures taken to ensure that foreign workers (and their dependants) who are nationals of countries that have ratified the Convention receive the *same compensation* as that granted to national workers in the event of occupational accidents. The Government indicates in its last report that, while it understands the Committee's concern, it is of the view that the current arrangement of separate workers' compensation systems for local and foreign workers appears to function in a satisfactory manner and that the compensation payable to foreign workers is not inferior to that payable to Malaysian workers. The Government adds that a policy decision needs to be taken before the issue of non-conformity with the Convention is addressed.

The Committee regrets to note that the Government has not taken any measures to bring the national legislation into conformity with the Convention. It reiterates that the national legislation, which establishes, in case of employment injury, the principle of differing treatment between national and foreign workers is not consistent with the Convention. In Malaysia, in the event of an employment accident, benefits are provided through two distinct national laws. By virtue of the Employee's Social Security Act, 1969, national workers are entitled to a pension, whereas according to the Workmen's Compensation Act, 1952, foreign workers are entitled to a lump-sum payment. Furthermore, the conditions governing affiliation to insurance against employment accidents differ between national workers (compulsory insurance when earnings are below RM3,000) and foreign workers (exclusion from compulsory insurance of non-manual workers earning over RM500).

The Committee is therefore bound once again to recall that, by virtue of *Article 1, paragraphs 1 and 2, of the Convention*, each Member which ratifies the Convention undertakes to grant, without any condition as to residence, to the nationals of any other Member which has ratified the Convention who suffer employment injury in its territory, or to their dependants, the *same treatment* as that granted to its own nationals in respect of workers' compensation. The Committee considers that, since the compensation payable to foreign workers under the Workmen's Compensation Act is not considered to be inferior to that payable to national workers, all workers, whether they are nationals of Malaysia or foreign nationals, could be allowed to decide which of the two systems they prefer for their own personal coverage. Such a measure would be consistent with the fundamental principle established by the Convention, according to which States parties must implement the *principle of equal treatment* in respect of workmen's compensation between their own nationals and foreign workers (nationals of any other Member which has ratified the Convention), and have to ensure that it is possible for foreign workers or their dependants who suffer employment injury and return to their countries of origin to receive the payments abroad under special arrangements. *The Committee accordingly expresses the firm hope that the Government will re-examine the matter and provide information in its next report on the measures taken or envisaged to bring the national law and regulations into conformity with the Convention. It also requests the Government to provide detailed statistical information on the number and nationalities of foreign workers employed in the country.*

[The Government is asked to reply in detail to the present comments in 2007.]

Mauritius

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1969)

For many years, the Committee has been drawing the Government's attention to the fact that the Workmen's Compensation Act (Chapter 220), which remains applicable to certain categories of workers excluded from the application of the National Pensions Act, 1976, does not contain any provisions giving effect to *Article 5* (compensation in the form of periodical payments in the case of permanent incapacity or death); *Article 7* (additional compensation for workmen injured in such a way as to require the constant help of another person); *Article 9* (entitlement to medical and surgical aid); *Article 10* (supply and renewal of artificial limbs and surgical appliances, as necessary); and *Article 11* (guarantees against the insolvency of the employer or insurer) of the Convention.

In this connection, the Government indicated in its 1999 report that the merger was envisaged of the Workmen's Compensation Act and the National Pensions Act, to ensure the full application of the Convention. The Committee notes from the information provided by the Government in both its last and its 2001 report, that the merger of the above legislation has still not been completed. The Government adds, however, that the competent ministry has now reached the

stage of drafting the bill and that it has been urged to complete this process without delay. *The Committee therefore hopes that the Government will take all the necessary measures to make the required legislative amendments as soon as possible so as to ensure that all workers covered by the Convention receive the compensation guaranteed by this instrument in the event of an accident in the workplace.*

[The Government is asked to reply in detail to the present comments in 2008.]

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1969)

Article 1 of the Convention. Equal treatment. For many years, the Committee has been drawing the Government's attention to section 3 of the National Pensions (Non-Citizens and Absent Persons) Order, 1978, as amended by the National Pensions Act, under which foreign nationals may not be affiliated to the insurance scheme unless they have resided in Mauritius for a continuous period of not less than two years. Foreign workers who do not meet this residence condition are covered by the Workmen's Compensation Act. However, this latter Act does not establish a level of protection that is equivalent to that guaranteed under the national pensions scheme in the event of employment injury. In its last report, the Government indicates, as it did in 2001, that section 3 of the Order of 1978 referred to above has not yet been amended, but that the observations made by the Committee of Experts will be taken into account in the process of revision of the National Pensions Act and its implementing regulations. It however adds that the Bill is now in the drafting stage and that the ministry responsible has been requested to complete the process of bringing the national legislation into conformity with the Convention rapidly.

The Committee takes due note of this information. It recalls that, under the terms of *Article 1, paragraph 2*, of the Convention, equality of treatment in respect of workmen's compensation shall be guaranteed without any condition as to residence to the nationals of any other Member which has ratified the Convention and who are the victims of employment injury. *The Committee trusts that the Government will be in a position to provide information in its next report on the progress achieved towards the amendment of section 3 of the Order of 1978 referred to above so as to bring its legislation into conformity with the Convention.*

[The Government is asked to reply in detail to the present comments in 2008.]

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1969)

The Committee notes with satisfaction that the schedule of occupational diseases established by the National Pensions (Industrial Injuries) Regulations, 1979, has been amended so as to include, in accordance with the schedule under *Article 2 of the Convention*, silicosis (with or without pulmonary tuberculosis) and the loading and unloading or transport of merchandise in general, which may lead to anthrax infection.

Mexico

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1961)

The Committee notes the particularly detailed information, including statistics, provided by the Government in reply to its previous comments, following the entry into force in 1997 of the new legislation which associates the private sector in the achievement of the objectives pursued by the social security. With reference to its previous comments, the Committee notes the information provided on the application of *Article 72, paragraph 1, of the Convention* (participation of the persons protected in the management of institutions), and of *Articles 65, paragraph 10, and 66, paragraph 8* (adjustment of the amount of benefit), *Part XI* (Standards to be complied with by periodical payments). The Committee also notes the communication dated 8 March 2005 from the Independent Trade Union of Workers of the National Consumer Protection Office (SITPROFECO), and the Government's reply dated 11 September 2006 (see point 6 of the observation). *The Committee requests the Government to provide information on the following points.*

1. *Part II (Medical care).* In its previous comments, the Committee noted that, in accordance with section 89 of the Social Security Act, the Mexican Social Security Institute (IMSS) may provide the medical care for which it is responsible according to the three following procedures: (i) directly through its own personnel and facilities; (ii) indirectly, by means of agreements with other public or private providers of care; or (iii) indirectly, through the conclusion of agreements with enterprises with their own medical services.

In this respect, the Committee requested the Government to provide copies of agreements for the transfer of responsibility for the provision of care concluded with service providers (care providers in the private sector), as well as copies of reimbursement agreements and agreements for the provision of care concluded with enterprises with their own medical services, or with other institutions referred to in the report. The Government indicates in its report that, in accordance with sections 18 and 21 of the Federal Act on Transparency and Access to Government Public Information, of 11 July 2002, the IMSS is not in a position to provide copies of the agreements that it has concluded, as they contain personal data which are confidential. In this respect, the Government provides models of the agreement used by the IMSS for the provision of medical services. The Committee notes these models. It wishes to draw the Government's attention to

the fact that it is not the intention of the Committee to obtain any personal data. *What the Committee wishes to obtain is documentation which enables it to verify, for each of the systems under consideration, the content of the various benefits provided under the system for the reimbursement and the subcontracting of services and that they are compatible with those enumerated in Article 10, paragraph 1, of the Convention. The Committee therefore requests the Government to provide information on the measures adopted to give effect to section 89, second subsection (III), of the Social Security Act, under the terms of which “the persons, enterprises or entities to which this section refers shall be obliged to provide the Institute with any reports and medical or administrative statistics that it may require and comply with the instructions, technical standards, inspections and supervision prescribed by the Institute, under the terms of the rules governing the provision of medical care. It also requests the Government to supply, where appropriate, copies of inspection reports on this subject.*

2. *Part V (Old-age benefit), Articles 28, 29 and 30 of the Convention.* In its previous comments, the Committee noted that, for persons who fulfil the qualifying conditions for an old-age pension as set out in the legislation, the level of the pension is not determined in advance, but depends on the capital accumulated in the individual accounts of workers, and particularly the return obtained on such capital, which has to be entrusted to the management of a retirement fund administration company (AFORE) selected by the worker. However, under the terms of section 170 of the Social Security Act, the State guarantees to workers who fulfil the age conditions and the qualifying periods set out in section 162 of the Social Security Act the provision of a “guaranteed pension”, the amount of which is equivalent to the general minimum wage for the Federal District. In this respect, the Government indicates that the amount of the guaranteed pension is increased annually in the month of February in accordance with the fluctuations observed the previous year in the National Consumer Price Index, with the purpose of maintaining the purchasing power of the pension in accordance with fluctuations in the prices of goods and services. The Committee notes this information. It also notes the detailed statistical data provided in the manner indicated in the report form approved by the Governing Body under *Article 66* of the Convention, Titles I and III. The Committee observes that, according to the above information, the amount of the minimum guaranteed pension for 2005 was equivalent to 30.82 per cent of the wage of the ordinary adult male labourer, selected in accordance with the provisions of *Article 66* of the Convention. ***The Committee draws the Government’s attention to the fact that the above percentage – 30.82 per cent – in respect of old-age benefit, is considerably lower than the minimum percentage prescribed by the Convention (40 per cent of the reference wage for a standard beneficiary). The Committee therefore hopes that the Government will adopt the necessary measures to raise the minimum guaranteed amount so that it is equivalent to the minimum percentage prescribed by the Convention.***

3. (a) In its previous comments, the Committee requested the Government to indicate the total average percentage of the commissions charged, including the average applied to the capital and the average applied to the wage, in relation to the average wage of a standard man and woman beneficiary. In its report, the Government indicates that the commissions charged on the tripartite contributions for retirement, cessation of work at an advanced age and old age (RCV) are expressed as a percentage of the basic wage used for calculation (SBC), which is the wage on which the contribution is determined, and are equivalent to 6.5 per cent of the worker’s wage. The commission on contributions is not applied to the social contribution paid by the Government, which is equivalent to 2 per cent of the wage of an average worker. The commissions on capital are expressed as a fixed annual percentage and applied to the capital balance administered by the AFORES and invested in specialized retirement fund investment companies (SIEFORES), which excludes the capital in the housing sub-account. To obtain the total percentage of commissions on contributions and on capital in relation to the amount of the wage, it is necessary to project in time the contributions and commissions of the AFORES, based on the real rate of return on the workers’ funds. In May 2006, the equivalent commission on the average contributions to AFORES over 25 years, for an average worker, was 1.38 per cent of the wage. According to the information provided by the Government, the intense competition between AFORES has resulted in a significant fall in the rates of commissions. Between June 2001 and May 2006, there was a fall of 37.3 per cent in the indicator for equivalent commissions on contributions over 25 years. The Committee notes the above information. ***It requests the Government to provide information, including statistics and, where appropriate, reports of the supervisory bodies, indicating the average percentage which has in practice been used for the payment of commissions, on both contributions and capital, since the entry into force of the Act.***

(b) With regard to the question of whether, when determining the level of commissions, consideration was given, in accordance with *Article 71, paragraph 1*, of the Convention, to their impact on persons of small means, the Committee notes that the new system of pensions has not involved an increase in the contributions paid by workers and employers. With the change of the system and the adoption of the system of individual accounts, a new contribution was established at the charge of the Government, known as the social contribution, which is more favourable to workers with lower wages as it consists of a fixed amount for each day of contributions. At the same time and to reinforce the system’s characteristic of solidarity, the guaranteed pension was established, which offers protection to workers with modest financial means and is paid through general taxation. Furthermore, under the terms of section 37 of the Retirement Systems Savings Act, AFORES may only charge commissions on a percentage of the value of the capital administered and on contributions, or a combination of both. As a result of charging commissions as percentages of wages and capital, and of excluding the social contribution from this charge, workers with modest financial means in practice pay less for the administration of their account than workers with greater means. The same section explicitly provides that AFORES may in no case charge fixed amounts for the administration of accounts, in view of the regressive nature of this type of charge.

(c) In its previous comments, the Committee noted that the basic capital for the provision of invalidity, life and employment injury pensions which is transferred to the insurance company for the provision of a lifetime annuity is calculated in accordance with the mortality tables for invalids by age and by sex. In reply to its previous comments, in which the Committee requested information disaggregated by age and sex on the amount of the commissions charged by AFORES (“programmed retirement”) and insurance companies (lifetime annuities) during the passive period, the Government indicates that, as of the month of May 2006, AFORES had not recorded the payment of any “programmed retirement” benefits, for which reason no commissions had been charged. The Committee notes this information. ***It requests the Government to provide the information requested in relation to lifetime annuities.*** With regard to the basic capital transferred to insurance companies, the Government indicates that it includes the savings accumulated by the worker up to the date on which the contingency occurs. The basic capital is composed of resources from the individual account and the amount insured, which is covered by the IMSS with resources from employers’ contributions to the employment risks insurance scheme. The Committee notes this information. ***Taking into account the fact that, in accordance with the national legislation, the financing of employment risks is at the charge of the employer, the Committee requests the Government to indicate the provision of the national legislation establishing that the savings fund of the worker can be used to contribute to the financing of a benefit.***

4. In its previous comments, the Committee drew the Government’s attention to *Article 29, paragraph 2(a)*, of the Convention, which provides that a reduced old-age benefit shall be secured at least to a person protected who has completed, prior to the contingency, a qualifying period of 15 years of contribution or employment. In its report, the Government indicates that, due to the recent change to a fully funded system, persons who draw pensions under the retirement, cessation at an advanced age and old-age scheme, have not accumulated sufficient resources in their individual accounts to finance the respective pension. Nevertheless, workers who were first insured under the Social Security Act of 12 March 1973, only require 500 weeks of contributions, equivalent to ten years of contributions, to be entitled to this benefit. With regard to workers covered by the new Social Security Act, who fulfil the conditions referred to in *Article 29, paragraph 2*, of the Convention, the Government indicates that the prospects for the development of the fully funded system in terms of the resources accumulated are still not sufficient to allow the financing of a reduced old-age benefit, in view of the fact that the reform of the pensions system is relatively recent. Nevertheless, there is sufficient time to develop firmer projections of the accumulation of resources under the new system and, where appropriate, to analyse possible supplementary sources of financing for a reduced benefit, and also to propose other solutions. The Committee notes this information. ***It hopes that the Government will be able to re-examine the situation and indicate the measures adopted or envisaged to secure the provision of a reduced old-age benefit to all persons protected who have completed, prior to the contingency, a qualifying period of 15 years of contribution or employment, in accordance with the provisions of the Convention on this matter.***

5. *Part XIII (Common provisions)*. (a) *Financing (Article 71)*. The Committee notes the information on the financing of benefits. It requests the Government to indicate the manner in which effect is given to *Article 71, paragraph 2*, of the Convention in the case of employment injury benefits, in so far as the capital accumulated in the individual accounts of workers contributes to the financing of such benefits, under the terms of sections 58 and 64 of the Social Security Act. The Government indicates that the capital withdrawn from the individual account for the financing of the pension is commensurate with the percentage of the degree of permanent incapacity. For example, where an insured person is evaluated at 30 per cent incapacity, no more than 30 per cent of the total capital in the account on the date of the commencement of the pension will be withdrawn, and such resources serve to finance the pension, with the difference to reach the basic capital required for the provision of the pension being provided by the IMSS through the amount insured. The Government adds that, in view of the relatively brief period since the reform of the pensions system, the accumulation of capital in workers’ individual accounts is still relatively insignificant for participation in contributing the basic capital, with the result that this type of benefit is covered by the amount insured through employers’ contributions. ***The Committee requests the Government to indicate the source of the resources under each system considered for each of the Parts of the Convention accepted, with an indication in particular of the rate or the level of the amounts deducted from earnings to finance each system, either through contributions or taxation. As employment injury benefits are covered by a specific branch, please indicate the level of resources allocated for the financing of such benefits.***

(b) *Administration and control of the social security system (Articles 71, paragraph 3, and 72, paragraph 1)*. In its previous comments, the Committee emphasized the need to undertake a global actuarial evaluation of the whole social security system. As the Government has not replied to the Committee’s previous comments in this respect, the Committee is bound to emphasize that, to ensure the full application of *Article 71, paragraph 3*, the above evaluation must cover the various pension schemes, including and recapitulating at a specific evaluation date the fixed and contingent liabilities, as well as all the debts and commitments of the State deriving from the former and the new social security systems, encompassing the responsibilities of the IMSS, the INFONAVIT and the SAR in terms of financing and liabilities and all items of expenditure, including collection, administration, supervision and control. ***The Committee considers that the viability and sustainability of the system depend on a detailed analysis of the real and foreseeable development of the system as a whole. Indeed, this is of the very essence in an actuarial study. Only a global actuarial evaluation of the system will make it possible to estimate the contingent deficits to be underwritten by the State and to make the corresponding forecasts. It therefore requests the Government to take the necessary measures to give effect to this provision of the Convention and to provide information on the progress achieved in this respect.***

6. *Communications from representative organizations on the application of the Convention.* The Committee notes the communication dated 8 March 2005 from the Independent Trade Union of Workers of the National Consumer Protection Office (SITPROFECO), and the Government's reply dated 11 September 2006.

The SITPROFECO draws attention to the failure of the IMSS to take legal action to regularize the situation of over 27,000 women workers in the AVON company who were registered with the compulsory social security scheme until the end of 2004, thereby failing to give effect to the Convention. It indicates in this respect that, as from 14 November 2004, the AVON company took unilateral action to disaffiliate 23,627 women workers in the enterprise from the compulsory social security scheme, and exerted pressure for them to give up their employment status, which constitutes a violation of industrial relations.

The Government indicates that the IMSS took legal action to regularize the situation of the women working on commission with the compulsory social security scheme. It refers to Accord No. 278/2004 dated 23 June 2004, adopted by the Technical Council of the IMSS, under the terms of which, in accordance with section 285 of the Federal Labour Act, in conjunction with sections 20 and 21, commercial agents, including agents working on commission under the domination of "representatives", shall be considered as workers in the enterprises for which they provide their services, where their relationship is of a permanent nature, and are therefore liable to coverage by the compulsory scheme established by section 12(1) of the Social Security Act.

The Government adds that the unilateral action of AVON to disaffiliate a large number of its workers from the compulsory social security scheme, and to exert pressure on them to renounce their employment status, constitute aspects of the employment relationship between the enterprise and its women workers engaged on commission which, in its view, are not related to the Convention. It further considers that in the area that lay within the competence of the IMSS at that time, the women workers, including women workers engaged on commission, were covered by social security in accordance with the Social Security Act, as a result of which there was no violation of the Convention.

The Government further notes that the Mexican legal system has established the necessary legal procedures, which can be used by workers in defence of their interests. It is therefore the responsibility of the representatives working on commission or the commercial agents concerned to pursue their rights under the labour and social security legislation individually or collectively in the respective courts through the corresponding legal action.

The Committee notes the Government's statement. The Committee considers that, in general, workers should not be compelled to have recourse to the labour inspectorate or the courts to uphold their rights to coverage by the social security and, where appropriate, to receive the corresponding benefits; in the event of the failure of employers to comply with their obligations, it is the responsibility of the State to adopt all the necessary measures to ensure that such benefits are provided in practice, in accordance with *Article 71, paragraph 3*, and *Article 72, paragraph 2*, of the Convention. The Committee recalls that, under the terms of these provisions, the State shall accept general responsibility for the due provision of the benefits provided in compliance with the Convention and for the proper administration of the institutions and services concerned in the application of the Convention, and that it accordingly has to adopt, wherever necessary, all the appropriate measures to achieve this objective.

The Committee therefore considers that, in addition to its role in facilitating social dialogue, it is the responsibility of the State, as indicated by the Government, to ensure compliance in practice with the guarantees and rights enjoyed in accordance with the national legislation, namely article 123 of the Political Constitution of the United States of Mexico, the Federal Labour Act and the Social Security Act.

The Committee also expresses concern at the pressure exerted by the AVON company on the women workers to renounce their employment status, thereby depriving them of their entitlement to compulsory coverage by the social security scheme. It considers that the Government should adopt energetic measures to combat contractual agreements which conceal the real legal existence of an employment relationship. ***It therefore hopes that the Government will provide information on: (a) the inspections carried out by the IMSS to ascertain, in accordance with section 251(XI) of the Social Security Act, the termination of the condition which gave rise to the insurance coverage of the women workers whom the AVON enterprise disaffiliated; (b) the measures adopted by the Social Security Registration and Contribution Directorate to ascertain, in accordance with point 4 of Accord No. 278/2004, whether the women workers dismissed by the AVON company are covered by the exceptions envisaged in section 285 of the Federal Labour Act; (c) the measures adopted, in accordance with point 3 of the Accord, to establish a programme for dissemination and compliance with the terms of the Accord; and (d) the number of inspections undertaken, infringements reported and, where appropriate, penalties applied.***

The Committee is addressing a request directly to the Government seeking additional information.

[The Government is asked to reply in detail to the present comments in 2007.]

Myanmar

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1956)

For many years, the Committee has been drawing the Government's attention to the *need to amend the national legislation in order to align it with the Convention*, and particularly with *Article 5* and *Article 10* concerning, respectively, the compensation due in the event of permanent disability or death, and the supply of necessary artificial limbs and surgical appliances. In its last report, as regards the application of *Article 5 of the Convention*, the Government refers to article 8(8) of the 1924 Workmen's Compensation Act respecting the Commissioner's authority to intervene in the administration of workmen's compensation in the event of a parent's negligence towards dependent children or for any other sufficient cause. According to this provision, the Commissioner may, if he sees fit, make orders to vary the distribution of any sum paid as compensation, according to the circumstances of the case.

The Committee recalls that, in the comments it has made time and again since the Convention entered into force for Myanmar, it has referred to article 4 of the Workmen's Compensation Act which, according to information available to the Committee, provides that compensation payable in the case of injury followed by death or permanent disability is due *in the form of a lump sum* and that only compensation for injury followed by temporary disability may be paid *in the form of periodical payments*. Article 8, to which the Government refers, concerns only the administration of compensation due in the event of death to persons with no legal capacity. In these circumstances, the Committee is bound to remind the Government that *Article 5* of the Convention establishes the principle that, in the event of permanent disability or death, compensation shall be paid in the form of periodical payments and may be paid in a lump sum only in exceptional cases where the competent authority is satisfied that it will be properly utilized. ***Consequently, while taking due note of the information in the Government's report, the Committee requests the Government to take the necessary steps, as it said it would, to amend article 4 of the Workmen's Compensation Act to bring it into line with Article 5 of the Convention.***

The Committee also notes that, according to the Government, the cost of supplying and renewing artificial limbs and surgical appliances for injured workers is borne by the competent board. However, according to information available to the Committee, both the Workmen's Compensation Act (article 4(3)) and the implementing regulations for the Social Security Act of 1954 (article 65(2)) continue to impose a ceiling for the supply and renewal of artificial limbs and surgical appliances for injured workers, contrary to the Convention, which allows no such ceilings. ***The Government is therefore asked to indicate in its next report whether it has amended the provisions of the above texts and, if not, to state what measures are under way to do so.***

Netherlands

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (ratification: 1969)

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

With reference to its previous observation concerning the extensive comments made by the Netherlands' Trade Union Confederation (FNV), in a letter dated 25 August 2003, on the application of the various provisions of the Convention, the Committee notes the Government's report for the period 1 June 2003 to 1 June 2005, which replies to some of the issues raised. This report and the replies of the Government were the subject of a further communication from the FNV dated 15 September 2005, in which the Confederation expresses concern about the application of most of the Articles of the Convention and provides copies of the relevant decisions of the Central Court of Appeal (CRvB). This communication was transmitted to the Government by the Office on 20 October 2005. ***Taking into account that the Government's report on the application of the Convention is due in 2006, the Committee hopes that it will not fail to provide detailed information on all the points raised, including statistical data, as well as an English translation of the relevant provisions of the legislation.*** In the meantime, taking into account the extensive and complex nature of the problems raised by the FNV, the Committee wishes to remind the parties that they can have recourse to the technical services of the Office, which might help to clarify the issues in question. In this respect, the Committee also refers to the questions raised in its direct request of 2002, which it will consider together with the Government's next report.

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

Nicaragua

Workmen's Compensation (Agriculture) Convention, 1921 (No. 12) (ratification: 1934)

In its previous comments, the Committee asked the Government to provide information on the *extension of the coverage of the social security system to rural areas*, an appreciable reduction having been observed in the number of people affiliated and protected, particularly in the agricultural sector, where the quality of medical services had deteriorated seriously.

In its last report, the Government states that there was a 48 per cent increase in 2005 over 1998 in the number of persons insured against occupational risks. In the agricultural sector more specifically, the number of persons affiliated rose by 23 per cent in the abovementioned period: from 16,211 in 1998 to 19,874 in 2005. The Government again refers to agreements concluded with private and public health-care providers for the supply of health services, and states that a network of providers has been set up specifically to enable the inhabitants of border areas to have access to the best possible health services. However, in some parts of the country there are still technical problems which are an obstacle to the improvement of medical services, but the Nicaraguan Social Security Institute (INSS) is still implementing measures for the improvement of occupational-risk-related medical care in these areas.

The Committee notes this information and would be grateful if the Government would continue to report on the measures implemented – and the results obtained – gradually to extend INSS coverage for occupational risks to all agricultural workers in the country. It would ask the Government in particular to indicate in its next report the percentage of agricultural employees covered for occupational accidents in relation to the total number of agricultural employees.

The Committee further notes that, according to the Government, section 126 (formerly section 103) of the Labour Code of 1996, allowing the courts or the departmental labour inspector to reduce the amount of compensation payable for occupational accidents, applies to all small enterprises and to domestic service. Nevertheless, this provision of the Labour Code applies only where the workers concerned are not covered by the social security system and the employer's insolvency is duly established before the courts. The Government adds that the extension of the coverage of the social security system to domestic service forms part of a social security promotion programme currently under way. On this subject, the Committee refers the Government to its comments under the Workmen's Compensation (Accidents) Convention, 1925 (No. 17).

Norway

Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) (ratification: 1990)

In its previous comments, the Committee pointed out that the possibility, under sections 4–5 and 4–20 of the National Insurance Act of 28 February 1997, of compelling unemployed persons to accept jobs offering less income than the unemployment benefit to which they would otherwise be entitled as of right, or to accept self-employment, which would deprive them of further social security coverage against unemployment, if abused by the employment service, could completely undermine the nature and purpose of unemployment benefit as foreseen by the Convention. In reply, the Government states in its report that the legal provisions compelling unemployed persons to accept jobs offering less income than the unemployment benefit or to generate income from self-employment have been abrogated by the decision of the Storting of 16 December 2005. The Committee notes with satisfaction that the corresponding amendments to the National Insurance Act came into force as of 1 January 2006.

As regards other provisions of the National Insurance Act under which a person could be disqualified from receiving unemployment benefit for having refused an unsuitable job offer, the Committee recalls that, according to section G.4 of the guidelines of the Directorate of Labour, in order to be regarded as a genuine jobseeker, an applicant for unemployment benefit must be willing and able to accept *any* work that is remunerated according to a collective wage agreement or a local custom. Section G.4.1 details that the obligation to take any work means that applicants for employment cannot make reservations as regards the type of occupation they will work in and must be willing to accept any work they are physically and mentally fit for, *even in occupations for which they are not trained or in which they have no previous experience*. The applicant's skill, qualification, acquired experience and length of service in the former occupation – criteria which are normally used for assessing the suitability of employment – are not taken into account when the decision on the withdrawal of the benefit is taken following the jobseeker's refusal to accept the employment offered on these grounds.

The Committee wishes to observe in this respect that, according to the definition of the contingency contained in *Article 10, paragraph 1*, the aim of the Convention consists precisely of offering unemployed persons protection during the initial period of unemployment from the obligation to take up jobs that are not suitable to their acquired professional and social status. In line with this aim of the Convention, *Article 21, paragraph 1*, specifies that the entitlement to the benefit in the case of full unemployment may be withdrawn or suspended only when the person concerned refuses to accept *suitable* employment, taking into account, under prescribed conditions and to an appropriate extent, the criteria of the suitability of employment laid down in *paragraph 2* of this Article and, in particular, the length of service in the former occupation and the acquired experience. *The Committee would appreciate therefore if the Government would consider the possibility of including in the above guidelines of the Directorate of Labour the reference to the international obligations of Norway under Convention No. 168, so as to instruct the employment offices not to apply sanctions for refusal to accept unsuitable job offers at least during the initial duration of unemployment specified in Article 19, paragraph 2(a).*

[The Government is asked to reply in detail to the present comments in 2007.]

Peru

Unemployment Provision Convention, 1934 (No. 44) (ratification: 1962)

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

In its previous observation, the Committee had noted the lack of progress towards the implementation of an unemployment protection system, as provided for in the Convention. In this regard, the Committee observes that, while the Government continues to refer, as it has done up until now, to the system of compensation on the basis of length of service (Presidential Decree No. 001-97-TR) and the existence of compensation for unjustified dismissal (Legislative Decree No. 728, approved by Presidential Decree No. 003-97-TR), which may not be considered as constituting an unemployment protection system in accordance with the requirements set forth in this Convention, it indicates that recent draft laws contain proposals for the creation of an unemployment insurance system. The Government adds, however, that it does not yet have all the necessary data on the subject and that a preparatory study is currently aimed at determining the sustainability of an unemployment insurance system. The report also indicates that the various draft laws on the subject will be examined with a view to achieving consensus between all the social actors concerned by an unemployment insurance system.

The Committee notes this information. It notes that, henceforth, the Government appears to be studying in depth the creation of an unemployment insurance system with a view to bringing its national legislation into line with the provisions of the Convention. *The Committee recalls that it is now over 40 years since Peru ratified the Convention and hopes that the Government will keep it duly informed of the results of the current initiative and that it will spare no effort to ensure that the necessary actuarial studies are carried out in the very near future and to establish an unemployment insurance system in accordance with the Convention.* In this regard, the Committee recalls that, in order to give effect to the provisions of the Convention, ratifying States must ensure a benefit or an allowance to persons who are involuntarily unemployed, by means of a scheme which may be a compulsory insurance scheme, or a voluntary insurance scheme, or a combination of compulsory and voluntary schemes, or any of these alternatives combined with a complementary assistance scheme (*Article 1 of the Convention*).

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

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1961)

The Committee notes the information provided by the Government in its report and the discussion held in June 2005 in the Conference Committee on the Application of Standards. The Committee notes the information provided by the Government in its report and the attached documents.

Health-care scheme

Part II (Medical care), Article 10 of the Convention (in conjunction with Article 8). In its previous comments, the Committee requested the Government to indicate, especially through statistics, the situation with regard to domiciliary visiting for persons affiliated to Health Care Providers (EPS). In its report, the Government indicates that the Health Care Providers Supervisory Authority does not have statistical data on health plans which include the additional benefit of doctors' visits at home. A rapid survey was therefore undertaken reviewing 50 plans out of a total of 1,354 regular contracted health plans in the EPS system and it was found that 6 per cent of the plans do not include this benefit, but that in all cases these are old plans which have been in force for over three years and are valid up to the month of September 2005. As from September 2005, all plans include domiciliary visiting by doctors. *The Committee notes this information, as well as the statistics on the number of persons covered by compulsory and voluntary insurance who received care at home in 2004. It hopes that, as indicated by the Government, in future all persons affiliated to EPS will, in accordance with this provision of the Convention, benefit from domiciliary visiting for the provision of health care. It requests the Government to keep it informed of the progress achieved in this respect, and to provide statistical information illustrating the situation in this regard.*

Part II (Medical care), Article 9, Part III (Sickness benefit), Article 15, and Part VIII (Maternity benefit), Article 48. In its previous comments, the Committee noted the information and statistics provided by the Government concerning the care and benefits provided by ESSALUD in the departments of Amazonas, Apurímac, Huancavelica, Huánuco, Madre de Dios, Moquegua and Pasco. It also noted the Government's indication that the EPS system had not received applications for membership in the above areas in view of the low number of workers in the formal economy in these regions.

The Committee requested the Government to keep it informed of any measures adopted or envisaged to supplement existing health establishments in departments such as Huancavelica, Madre de Dios and Moquegua where, by comparison with the other departments mentioned above, there are relatively few such establishments in relation to the number of persons insured by ESSALUD. In its reply, the Government indicates that 84 per cent of those affiliated with EPS in the above areas have received care in the enterprises and institutions attached to the EPS system, with care being provided on average on 4.69 occasions in 2004, and that in December 2004 a clinic was registered in the department of Huanuco. Furthermore, according to the available data, health-care establishments exist in the departments of Madre de Dios, Huancavelica and Moquegua. Patients receive care when this is required by their clinical condition. The Committee notes this information with interest, as well as the detailed information on the insured population contained in the report prepared by ESSALUD in 2005. *It requests the Government to provide information on the health-care establishments set up in the departments referred to above, with an indication of the type of care provided, and on the progress achieved in extending coverage to the departments of Amazonas, Apurímac, Huánuco and Pasco. It also requests the*

Government to provide detailed information on the geographical coverage and the numbers of persons covered by the three health programmes (ESSALUD, MINSA and SIS), in the manner requested in the report form (see the direct request).

Part XIII (Common provisions) (in conjunction with Parts II, III and VIII), Article 71. With reference to its previous comments concerning the manner in which the Health Care Providers Supervisory Authority (SEPS) supervises the operation of the health-care system, the Committee notes the supervisory reports of the Novasalud EPS and the Rimac Internacional EPS, a feasibility study requested previously and decisions applying penalties under resolution No. 26-2000-SEPS/CD.

Article 72. In its previous comments, the Committee requested the Government to indicate the measures it intended to take to allow the participation of the persons protected in the administration of EPS and the health-care services of individual enterprises. In its report, the Government indicates that the fact of establishing by regulation the participation of insured persons in the administration of autonomous institutions could be a breach of the constitutional right of free enterprise and the property held by private enterprises, as is the case of EPS. However, it indicates that the Health Care Providers Supervisory Authority operates a system of supervising benefits and economic and financial conditions intended to monitor solvency and the quality of the services provided in relation to the rights of insured persons. On the other hand, provisions have been established covering the process of the selection of the EPS and of health plans by insured persons. Regulations have also been issued respecting appeals and complaints, establishing the procedures to be followed by EPS users in the event of shortcomings in the service provided and failure to comply with any of the clauses of the contract. It adds that Convention No. 102 is based on the premise that public services are provided by the State. From this viewpoint, the participation of insured persons in administration is logical; nevertheless, under systems based on the participation of the private sector in the provision of public services, the role of the State is no longer the provision of benefits, but is focused on regulation and supervision; accordingly, Convention No. 102 could be interpreted in such cases as meaning that insured persons should participate in public regulatory bodies. The Committee notes the Government's statement.

The Committee wishes to remind the Government that Convention No. 102 is formulated in very flexible terms and is not based on the supposition that the provision of public services will be carried out solely by the State. The Convention authorizes the use of very varied methods to guarantee the benefits envisaged so as to take into account the diversity of situations at the national level. Under the terms of *Article 72* of the Convention, the administration may be entrusted to an institution regulated by the public authorities or to a government department or any other institution, provided that certain rules are respected. Convention No. 102 does not impose a uniform system of organization, but whatever the type of organization selected, the various interests that have to be represented in the administration of social security systems have to be taken into account, and particularly those of the persons protected. The Committee does not consider that the fact of establishing by regulation the requirement for the participation of insured persons in the administration of autonomous institutions could be in violation of the constitutional right to free enterprise and the property held by private enterprises which is enjoyed by private enterprises such as the EPS. What is important in this respect is that the interests of insured persons are represented in the administration of EPS. This is all the more important as, under the terms of the legislation (sections 15 and 16 of Act No. 26790), enterprises which provide health benefits, through EPS or their own services, are entitled to a credit on workers' contributions which, in theory, is equivalent to 25 per cent of these contributions. ***The Committee shares the Government's opinion that the procedures of accreditation and supervision can serve as a guarantee that the rights of insured persons are respected. However, it recalls that the participation envisaged in this provision of the Convention is intended to ensure that insured persons participate in the administration of these institutions and services. The Committee therefore trusts that the Government will re-examine the issue of the participation of insured persons in the management of autonomous institutions and that it will soon provide information on the measures adopted or envisaged to bring the national legislation into conformity with this provision of the Convention.***

Pensions scheme

I. Private pensions system

Part V (Old-age benefit), Articles 28 and 29, paragraph 1 (in conjunction with Article 65 or Article 66). In reply to the Committee's previous comments, the Government reiterates that the rates of the pensions provided under the Private Pensions System (SPP) cannot be determined in advance as they depend on the capital accumulated in individual capitalization accounts, and in particular on the return on the investments and the certificate testifying to other contributions paid, where appropriate. The Government provides information on the number of retirement pensions and their average amount in soles, as provided by the SPP as of 30 September 2004. Furthermore, based on certain assumptions, the Government makes an estimate to calculate the amount of a pension for an insured person who has contributed for 30 years. The Committee notes this information. ***As it is not possible under the Private Pensions System to know in advance the amount of benefits, the Government has to demonstrate that the minimum old-age pension under the National Pensions System (SNP) attains the minimum rate of benefit required by the Convention.*** This is all the more necessary as the minimum pension is a guarantee offered by the State to insured persons whose capital and accumulated return in their individual accounts are insufficient to attain the minimum rate required by the Convention, and to insured persons who have selected programmed retirement but have exhausted the resources accumulated in their

individual account. ***In this respect, the Committee once again recalls that the Government may have recourse to Article 66 of the Convention within the framework of the Private Pensions System provided that the minimum old-age benefit payable to a standard beneficiary with 30 years of contribution is not less than the minimum rate required by the Convention (40 per cent of the wage of an ordinary adult unskilled male labourer as defined in paragraphs 4 and 5 of the above Article).***

Article 30. In its previous comments, the Committee requested the Government to indicate whether the minimum pension is also granted to insured persons who have reached 65 years of age with 20 years of contributions and who have opted for programmed retirement, and who have exhausted the capital accumulated in their individual accounts through the monthly withdrawals permitted by the system until the capital in their accounts is exhausted. The Government indicates that the approved minimum pension scheme is a supplementary scheme and does not replace state action. The minimum pension represents a guarantee offered by the State to workers who, while fulfilling the requirements in relation to age and contributions, do not benefit from a pension that is equal to or greater than the minimum pension established by the National Pensions System. It adds that those workers who have received a retirement pension under the programmed retirement procedure and whose account is exhausted cannot subsequently receive the minimum pension. ***The Committee notes this information with concern. It hopes that the Government will adopt the necessary measures to ensure, in conformity with this provision of the Convention, the payment of old-age benefit throughout the contingency,***

Part IX (Invalidity benefit), Article 58. In its previous comments, the Committee noted that a worker with invalidity and survivors' coverage is entitled to invalidity benefit for life payable by the insurance company. It also noted that when an insured person is not covered by invalidity insurance in the context of the Private Pensions System, that person receives a pension deducted from her or his individual capitalization account and may, in this context, receive a pension based on a life annuity. As, under the terms of section 44 of Supreme Decree No. 054-97-EF issuing the single text of the Act on the Private Pension Fund Administration System and section 131 of Supreme Decree No. 004-98-EF, a worker suffering from permanent or partial invalidity may choose between four forms of benefit, which include programmed retirement, the Committee requested the Government to indicate the measures adopted or envisaged to ensure that full effect is given to this provision of the Convention, under the terms of which the benefit shall be granted throughout the contingency. In its report, the Government indicates that when a worker is covered by invalidity and survivors' insurance, the invalidity pension is at the charge of the insurance company and is provided for life. In the case of insured persons who are not covered by the SPP invalidity and survivors' insurance, they are provided with a pension based on the resources in their individual capitalization accounts and other certified contributions, and receive a pension under the programmed retirement system; if the insured person is entitled to a certificate attesting to the payment of other contributions that is in the process of being issued, a preliminary pension will be provided under the programmed retirement system based on the existing balance of the individual capitalization account until reaching the statutory pensionable age. In this latter case, when the insured person reaches the statutory pensionable age, the certified contributions will be redeemed and the individual capitalization account will be closed, with the insured person receiving the redemption value of the certified contributions and whatever remains in the individual account. An insured person may opt for the programmed retirement method and then subsequently for a life annuity, which serves to ensure the provision of a minimum pension for persons affiliated to the SPP who are receiving a pension below the minimum rate or who were receiving a pension but whose individual account is exhausted. ***The Committee notes the above information. It requests the Government to indicate the provisions of the legislation under which this latter situation is envisaged.***

Part XIII (Common provisions), Article 71, paragraph 1. In its previous comments, the Committee noted that the cost of the benefits, certain administrative expenses and the costs of certain commissions are at the exclusive charge of workers who are insured under a Private Pension Fund Administrator (AFP), and that employers' contributions are of a voluntary nature. The Committee consequently hoped that the Government would take the necessary measures to ensure that full effect is given to this provision of the Convention. In its reply, the Government indicates that the SPP is an individual capital accumulation scheme, in which the amount of the pension is directly related to the quantity and value of the contributions made to the individual capitalization accounts of insured persons. Furthermore, the administration of the capital contained in individual accounts is the responsibility of the AFP, which receives payment for the services provided, which include a series of processes within the registration-collection-accreditation-investment-pension continuum throughout the working life of each insured person.

The Government provides information in this respect on the introduction of mechanisms to reduce the level of commissions, which have to correspond to a plan for permanent affiliation to the AFP. Moreover, if workers affiliated to the SPP interrupt the payment of their contributions, the process of investing the capital in their respective capitalization accounts is not affected and the accounts continue to generate returns. In this context, the administrators make no charge for the continued service of administering the funds. Finally, with regard to the collective financing of benefits, the SPP includes a minimum pension which allows the State to subsidize an adequate pension for those insured persons who fulfil the requirements of age and contributions set out in Act No. 27617 and who have not accumulated sufficient resources to finance the pension individually. The minimum pension is financed directly from the resources of the Public Treasury. The Committee notes this information. It regrets to note once again that, contrary to the provisions of *Article 71, paragraph 1*, of the Convention, both the financing and the costs of administering the private pensions scheme are at the exclusive charge of insured persons. ***The Committee does not believe that the minimum pension provided by the State***

solely in specific cases may be considered to represent collective participation within the meaning of Article 71, paragraph 1, of the Convention. On the contrary, the private pension scheme in Peru is an independent contributory scheme in which the resources destined to be used for the provision of benefits are obtained through the contributions made by insured persons. Under these conditions, the Committee hopes that the Government will take the necessary measures to give effect to this provision of the Convention, under the terms of which “the cost of the benefits ... and the cost of the administration of such benefits shall be borne collectively by way of insurance contributions or taxation or both in a manner which avoids hardship to persons of small means and takes into account the economic situation of the member and of the classes of persons protected”.

Article 71, paragraph 2. The Committee once again points out that, under the terms of this provision of the Convention, the total of the insurance contributions borne by the employees protected shall not exceed 50 per cent of the total of the financial resources allocated to the protection of employees and their spouses and children. In its report, the Government indicates that a person insured with the SPP currently has to pay contributions to her or his individual account at a rate of 8 per cent of monthly remuneration. Compulsory contributions make it possible to accumulate capital gradually to finance the retirement pension, as SPP pensions are directly related to the contributions paid individually by workers during their working lives and the return obtained by the AFP through the investment of such resources on the capital market. In this respect, it notes that the retirement pension of an insured person who has made 30 years of contributions will be financed to the level of 44.2 per cent by compulsory contributions and by the returns from the investments of the pension fund. *The Committee trusts that the Government will provide in its next report the statistics required by the report form under this Article of the Convention, both with regard to private pensions and health schemes and public schemes. The Committee requests the Government to indicate the total average percentage, including the average applied to individual capitalization accounts and the average applied to wages, of the commissions on the average wage of a worker.*

II. System of pensions administered by the Insurance Standardization Office (ONP)

Part V (Old-age benefit), Article 29, paragraph 2. In its previous comments, the Committee noted that this provision of the Convention is applicable to all old-age benefit schemes which establish a minimum period of contribution or employment, whether 20, 25 or 30 years, and provides for entitlement to a reduced pension for workers completing a qualifying period of 15 years of contribution or employment. Under these conditions, the Committee expressed the hope that the Government would take the necessary measures in the near future to ensure that protected persons may benefit, in accordance with this provision of the Convention, from a reduced pension after 15 years of contribution, and not 20 years as envisaged in Act No. 25967.

The Government indicates that the provision of a reduced pension for insured persons who have completed 15 years of contribution is envisaged under Legislative Decree No. 19990 in the case of insured persons who on 18 December 1992 had reached 60 years of age and completed the number of contributions specified. Nevertheless, in the context of the Convention, the ONP has been making proposals with a view to quantifying the cost in terms of both its impact on the budget of the National Pension System and its actuarial cost. The report with the final results of this analysis will be submitted to the Ministry of the Economy and Finance, which will assess the proposal and its feasibility in relation to the resources available for that purpose. The Committee notes this information. *It hopes that the evaluations that the Government is carrying out will result in the introduction, in accordance with this provision of the Convention, of a reduced pension applicable to the various pension schemes for insured persons who have completed 15 years of contribution. It once again requests the Government to provide additional information on the effect given in practice to Act No. 27655 and Supreme Decree No. 028-2002-EF, which envisage the granting of minimum guaranteed pensions in the context of the National Pensions System for persons who have not completed the minimum requirement of 20 years of contribution to the scheme.*

Part XI (Standards to be complied with by periodical payments), Articles 65 and 66. The Committee notes with interest the measures adopted and the progress achieved in increasing the level of the pensions provided by the National Pensions System. It notes the information supplied on the progression of the average pension in relation to the general consumer price index in Lima for the period 1996–2005. *Taking into account the importance of this issue, the Committee requests the Government to keep it informed of the application of measures to adjust the rates of periodical payments so as to take into account in particular changes in the cost of living in the country, in accordance with Articles 65, paragraph 10, and 66, paragraph 8.*

III. Supervision of the private and public pension systems

In its previous comments, the Committee pointed out the need for actuarial studies and calculations to be carried out regularly in order to ensure the application of *Articles 71, paragraph 3, and 72, paragraph 2*, in both the private and the public pensions systems. It notes the technical report undertaken to serve as a basis for a legislative proposal relating to the maintenance of compulsory contribution rates to pension funds.

Furthermore, in its previous comments, the Committee noted that the minimum rate of return of AFPs is determined in relation to the average profitability obtained by all private pension funds and does not necessarily guarantee a real return above the rate of inflation that is capable of providing effective protection for insured persons. It therefore

requested the Government to indicate whether any measures had been taken, including prudential arrangements, with a view to preserving the rights of insured persons where the return on investments is negative. In its report, the Government indicates that AFPs have to administer the resources of pension funds with the objective of achieving the maximum return for the least possible risk, with a view to providing retirement, invalidity and survivors' benefits and funeral grants. The investments have to generate a minimum return, so as to ensure the worker a minimum return, despite any possible bad management of investments by the AFP and/or adverse events or situations on the Peruvian capital market, whether internal or external in their origins. In this respect, the Government indicates that, with the adoption of Act No. 27988 and Supreme Decree No. 182-2003-EF, changes were made in the calculation of the minimum level of profitability. Furthermore, Resolution SBS No. 275-2005 established the responsibility of AFPs to select reference profitability indicators for each of the categories of investment of capital in relation to compulsory and voluntary contribution funds. The Committee notes this information. ***It requests the Government to provide updated copies with its next report of studies on the financial balance of public and private institutions, with an indication of the results of the studies and calculations.***

IV. Participation of protected persons in the administration of the systems

In its previous comments, the Committee noted with interest that, following the adoption of Act No. 27617 of 1 January 2002 reorganizing the public and private pensions systems, the Consolidated Reserve Fund (FCR) is now administered by a Board, the officers of which include two representatives of retired persons appointed at the proposal of the National Labour Council.

With regard to the Private Pensions System, the Committee requested the Government to provide information on the measures adopted or envisaged to give effect, in the context of the Private Pensions System to *Article 72, paragraph 1*, which provides that where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to the legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions. In its report, the Government indicates that AFPs are the only entities authorized to administer the resources of pension funds. If dissolution or liquidation proceedings are initiated for an AFP, once they have been resolved, its administration and representation is assumed by special delegates appointed by the superintendent, and who must constitute an odd number of at least three members. The functions of the special delegates are to be established by special regulation. Once the inventories and financial accounts of the AFP and its funds have been formulated by the special delegates, they are then temporarily administered by one or more other AFPs designated by the superintendent. The Committee notes this information. ***Since, as it indicated in previous comments, the freedom to choose an AFP is not sufficient to comply with the requirement of the participation of the insured persons in the administration of insurance institutions, as required by this provision of the Convention, it hopes that, as it announced previously, the Government will take the necessary measures to secure greater participation by insured persons or their representatives in the administration of AFPs.***

V. Communications from representative organizations relating to the application of the Convention

The Committee notes with interest the detailed information provided by the Government in reply to the communication, received by the Office on 10 April 2003, from the Association of Former Employees of the Peruvian Social Security Institute alleging non-compliance with a decision of 12 January 2001 issued by the Constitutional Court, ordering the adjustment of the pensions granted under Legislative Decree No. 20530. ***The Committee notes in this respect that the levelling or adjustment was undertaken taking into consideration the list of dismissals of the month of January 1997, and that these measures covered all dismissed workers covered by Legislative Decree No. 20530.***

With reference to the observations made by the Association of Retired Oil Industry Workers of the metropolitan area of Lima and Callao, the Committee notes the Government's indication that communication No. 362-2005-MTPE/OAJ was sent to the High Court of Justice of Lima, and that the outcome is awaited. ***The Committee requests the Government to keep it informed in this respect.***

With regard to the communication submitted previously by the World Federation of Trade Unions (WFTU), relating to the allegations made by the National Central Association of Retired Workers and Pensioners of Peru (CENAJUPE) concerning the adjustment of pensions, the Committee notes that the Government undertakes to provide information in this respect in a future communication.

The Committee is also raising other matters in the context of a request addressed directly to the Government.

[The Government is asked to reply in detail to the present comments in 2007.]

Portugal

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1994)

The Committee notes the Government's report and the comment of the General Workers' Union attached.

1. The Committee notes that, following the entry into force of Framework Act No. 32/2002 of 23 December, establishing a new structure for the social security system, extensive reforms are being carried out in its various branches, including in particular medical care, unemployment benefit and old-age benefit. Referring to these reforms, the General Workers' Union states that in future problems may arise with the financial sustainability of the system. The Government's 21st report on the application of the European Code of Social Security indicates in this respect that studies have been carried out on the financial equilibrium of the social security system with a view to the adoption of measures ensuring its financial viability, and that resources obtained from the increase of the VAT from 19 to 21 per cent have been allocated in equal parts to the financing of the social security of employees and of the pension fund of public officials (CGA). The report on Convention No. 102 mentions automatic transfer of a certain part of employees' contributions to the reserve fund until it is sufficient to cover foreseeable pension expenditure for a minimum of two years. The Committee observes that these measures comply with *Article 71, paragraph 3, of the Convention*, which requires governments to ensure that actuarial studies and calculations concerning financial equilibrium of the system are made periodically and consequent changes are applied to contribution rates or taxes allocated to covering the contingencies in question. In accepting general responsibility for the sustainable development of the social security system, governments should also see to it that the voice of the representatives of the persons protected or their representative associations is clearly heard at all levels of management of the social security system, particularly when attention is drawn to vital problems. The Committee wishes to emphasize that the periodical assessment measures set out in *Article 71, paragraph 3, of the Convention* and the participatory management of the system foreseen in *Article 72, paragraph 1*, provide the best guarantees that the social security system is governed in a knowledgeable and transparent manner, permitting to avoid and prevent risks of its financial disequilibrium and unsustainable development. ***In view of the preoccupations expressed by the General Workers' Union, the Committee would like the Government to furnish detailed information on the measures adopted or envisaged to safeguard the long-term future of the social security system, as well as to further promote through the reform process a strong role for workers' organizations and the participation of representatives of the persons protected at its various levels of management.***

2. *Part IV (Unemployment benefit). Article 23 of the Convention.* In its previous observation, the Committee requested the Government to reduce the excessively long qualifying period for entitlement to unemployment benefit of 540 working days of salaried employment over the last 24 months to make it consistent with *Article 23* of the Convention. The Committee notes with satisfaction that Legislative Decree No. 84/2003 of 24 April, established special temporary measures of protection of unemployed workers under the new Programme of Employment and Social Protection (PEPS), reduced this qualifying period to 270 days of employment with the corresponding record of remuneration over the 12-month period prior to the date of unemployment. The Committee further notes with interest that the draft law establishing the new regime of protection against unemployment is in the phase of public discussion. It draws the Government's attention to the possibility of having recourse to the technical expertise of the ILO for assessing the compatibility of the draft legislation with the provisions of the relevant international instruments.

Saint Lucia

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) ***(ratification: 1980)***

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

The Committee notes the adoption of the National Insurance Corporation Act, No. 18 of 2000, which repeals the National Insurance Act of 1978. It notes that the regulations applying the latter Act remain in force (National Insurance Regulation No. 37 of 1984). However, the Government indicates in this respect in its report that the Corporation is in the process of drafting new regulations. ***The Committee hopes that the Government will not fail to take advantage of this occasion to adopt the necessary measures to bring the national legislation into conformity with the following provisions of the Convention.***

Article 7 of the Convention. ***The Committee notes that, contrary to this provision of the Convention, neither the National Insurance Corporation Act of 2000 nor the 1984 Regulations referred to above contain provisions guaranteeing additional compensation for injured workers whose incapacities are of such a nature that they must have the constant help of another person.***

Articles 9 and 10. In reply to the Committee's previous comments, the Government confirms that medical benefits, which include medical, surgical and pharmaceutical aid, as well as the provision of surgical appliances, remain subject to a maximum amount. It adds that the legislation does not provide for additional funding to renew or purchase artificial limbs. ***The Committee hopes that the Government will be able to re-examine this matter and requests it to indicate the measures adopted with a view to the provision to injured workers, in accordance with Articles 9 and 10 of the Convention, of medical, surgical and pharmaceutical aid, including the supply and renewal of artificial limbs and surgical appliances as are recognized to be necessary, without the application of any ceiling to the amount of this aid.***

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

Sao Tome and Principe

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) (ratification: 1982)

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

The Committee notes that the Ministry of Labour, in collaboration with the Ministry of Health, is to benefit from UNDP financing for the establishment of the schedule of occupational diseases supplementing Act No. 1/90 on social security. The examination of the framework legislation on social protection, which envisages the establishment of several social protection schemes, has commenced and should provide a basis for the establishment of the schedule of diseases recognized as occupational diseases. *The Committee hopes that the Government will be in a position to provide information in the very near future on the tangible progress achieved in this field for the establishment of a schedule of occupational diseases, including as a minimum those enumerated in the Schedule annexed to Article 2 of the Convention.* It recalls that there are currently no technical standards in the country identifying certain diseases as being occupational diseases and that no occupational disease has therefore been diagnosed or compensated.

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

Senegal

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1966)

With reference to its 2002 observation relating to statistical data on the adjustment of employment injury benefit, the Committee notes that the Government confines itself in its report to stating that there has been no change in the legislation on the various benefits provided in the event of employment injury. It draws the Government's attention to the fact that in 2006 it was due to submit a detailed report containing statistical data on the coverage and level of benefits, and on the adjustment of long-term benefits, as requested in the report form under *Articles 4, 19 or 20, and 21 of the Convention*. The Committee therefore hopes that the Government will not fail to provide such statistical data for the reference period covered by the report (2001–05) for examination at its next session in November–December 2007.

[The Government is asked to report in detail in 2007.]

Sierra Leone

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1961)

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

Article 5 of the Convention. In its report, the Government indicates, in reply to the comments made for many years by the Committee, that a bill on Workmen's Compensation has been formulated but not adopted as yet. It further states that the abovementioned draft legislation reflects the provisions of the Convention concerning the payment of injury benefits throughout the period of contingency and that copy of the revised legislation will be communicated to the ILO as soon as it is adopted. The Committee notes this information as well as the Government's request for technical assistance from the Office in order to accelerate the implementation process of the revised legislation. *The Committee expresses the hope that the draft legislation will soon be adopted and requests the Government to provide a copy of it. On the basis of the new legislation, the ILO would certainly be able to discuss with the Government the terms of the requested technical assistance.*

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

Spain

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1988)

The Committee notes the detailed information provided by the Government in its report. *It notes, in particular, the Government's response to its previous comments on the application of Part III (Sickness benefit), Article 18, in conjunction with Part XIII (Common provisions), Articles 71, paragraph 3, and 72, paragraph 2; as well as Part VI (Employment injury benefits), Article 34, paragraph 2, and Article 36, paragraph 1, in conjunction with Part XIII (Common provisions), Articles 71, paragraph 3, and 72, paragraph 2, of the Convention.*

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

Suriname

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1976)

Article 7 of the Convention. Additional compensation. In its previous comments, the Committee observed that the necessary amendments to the Industrial Accidents Act (No. 145 of 1947) had not yet been introduced and expressed the hope that, in the very near future, the Government would take the measures needed in order to give full effect to this provision of the Convention. In its last report, the Government indicates that the Ministry of Labour has now started the process of the total revision of the Industrial Accidents Act in order to bring the national legislation into conformity with international labour standards.

The Committee takes due note of this information. It recalls that the need for an amendment to the Industrial Accidents Act has been identified for a number of years. The Committee consequently trusts that, in its next report, the Government will indicate the progress made towards the full implementation of the Convention by specifying the inclusion into the Industrial Accidents Act of a provision ensuring additional compensation in cases where occupational injuries result in incapacity of such a nature that injured workers must have the constant help of another person, as required by *Article 7* of the Convention.

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1976)

For many years, the Committee has been drawing the attention of the Government to the *need to revise the national list of occupational diseases*, so as to comply with the requirements of the Convention. In its last report, the Government indicates that the Ministry of Labour has started the process of the total revision of the Industrial Accidents Act in order to bring the national legislation into conformity with international labour standards.

The Committee takes due note of this information. It recalls that, since the Convention entered into force for Suriname, the Committee has repeatedly emphasized the need to revise section 25 of the Workmen's Injuries Decree No. 145 of 1947 (as amended), so as to include among the activities likely to cause anthrax infection the "*loading and unloading or transport of merchandise*" in general, as provided by the Convention. *It therefore hopes that the Government will take the opportunity of the ongoing reform of the national legislation to also amend the above Decree and thus give full effect to the provisions of the Convention.*

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1976)

In the comments that it has been making for 30 years concerning branch (g) – employment injury benefit, for which Suriname has accepted the obligations of this Convention, the Committee has noted that the benefits granted to nationals and non-nationals were subjected to the condition of residence, contrary to *Article 4 of the Convention*, that there was no payment of benefits abroad, contrary to *Article 5*, and none of the social security benefits were applicable to refugees and stateless persons, contrary to *Article 10*. The Government states that in the five-year period covered by its report no changes have occurred in legislation and practice affecting the application of the Convention and that some of its principles are still not fully applied due, in particular, as was previously pointed out by the Government, to the absence of a national social security scheme. It adds, however, that a total revision of the labour legislation of Suriname is in the final stage and that the Ministry of Labour together with the Ministry of Planning are now elaborating the terms of reference and seeking financial aid to finalize the revision, which would bring the legislation more in line with the provisions of the Convention.

The Committee notes in this respect that, during the 1990s, the Government had already received technical assistance in the social security field provided by the ILO and UNDP with a view to revising the labour legislation and instituting a national social security scheme, but that the introduction of the scheme was later set on hold due to other problems in the social sector, which were considered more urgent by the Government. The Committee notes that the present report prepared by the Ministry of Labour makes no mention of the question concerning the establishment of the national social security scheme, which enters into the competence of the Ministry of Social Affairs, and the cooperation between the two ministries necessary to modify and develop social security legislation. As the absence of a national social security scheme was consistently considered by the Government to be the principal reason preventing the full application of the Convention, it is asked to clarify its current position on this subject. *In the meanwhile, the Committee would like the Government to make sure that the terms of reference for the total revision of the labour legislation to be finalized by the Ministries of Labour and of Planning do not fail to include the revision of the social security legislation in question and, in particular, section 6(8) of Decree No. 145 of 1947, so as to give full effect to the above provisions of the Convention.* Finally, the Committee once again wishes to draw the Government's attention to the possibility of having further recourse to the technical assistance of the ILO in this area, if need be.

[The Government is asked to reply in detail to the present comments in 2008.]

Sweden

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1969)

In its previous observation, the Committee asked the Government to abolish a one-day waiting period for the payment of the incapacity benefit to a victim of an employment injury, in accordance with *Article 9, paragraph 3, of the Convention*. The Committee notes with satisfaction that, according to the Government's report, persons with work injuries occurring after 1 January 2003 can obtain compensation for the waiting day under the Sick Pay Act.

Switzerland

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1977)

Part IV (Employment injury benefit). Article 38 of the Convention (in relation to Article 69(f)). In its previous observation, the Committee referred to the rulings of the Federal Insurance Court (TFA) of 25 August 1993 and 21 February 1994, and asked the Government to bring the national legislation, in particular section 38(2) of the Federal Accident Insurance Act (LAA), into formal conformity with the above provisions of the Convention which authorize the suspension of benefit only where the contingency has been caused by the wilful misconduct of the person concerned. The Committee notes with satisfaction the Government's statement that section 38 of the LAA has been repealed. It is therefore no longer possible to reduce the cash benefits of survivors on grounds of serious negligence. With regard to the reduction and refusal of benefits, section 21(1) and (2) of the Act on the general part of social insurance law, which entered into force on 1 January 2003, provides that cash benefits may be reduced or refused if the insured person has aggravated the contingency insured or has *wilfully* provoked the occurrence of the contingency insured; the benefits due to the relatives or survivors of the insured person are only reduced or refused if these relatives or survivors have *wilfully* provoked the occurrence of the contingency insured.

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (ratification: 1977)

Part II (Invalidity benefit), Article 12 of the Convention (in conjunction with Article 32, paragraph 1(e)). In its previous observation, referring to the decisions of 25 August 1993 and 21 February 1994 of the Federal Insurance Court, the Committee asked the Government to bring the national legislation, particularly section 7(1) of the Federal Invalidity Insurance Act (LAI) allowing cash benefits to be reduced in the event of serious negligence, into full conformity with the above provisions of the Convention, which allow benefits to be suspended only where the contingency has been caused by serious wilful misconduct on the part of the person concerned. The Committee notes with satisfaction that, as regards the reduction and refusal of benefits, section 21(1) and (2) of the Social Insurance (General Provisions) Act (LPGA), which came into force on 1 January 2003, specifies that cash benefits may be reduced or refused, inter alia, if the insured person has aggravated the risk concerned or *wilfully* caused it to materialize; the benefits payable to the insured person's dependants or survivors may be reduced or refused only if the dependants or survivors have *wilfully* caused the risk to occur. The LPGA applies to invalidity insurance unless the LAI expressly provides otherwise. The above provisions of section 7(1) of the LAI have been repealed.

United Republic of Tanzania

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1962)

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

Article 5 of the Convention. Ever since the entry into force of the Convention for the United Republic of Tanzania, the Committee has been drawing the Government's attention to the need to amend the Workmen's Compensation Ordinance (chapter 263), which provides for payment in the form of a lump sum in the event of death or permanent incapacity. This is not in conformity with *Article 5* of the Convention, under which the compensation must be paid in the form of periodical payments. It is only as an exception that this Article of the Convention authorizes the conversion of the periodical payments into a lump sum, where the competent authority is satisfied that it will be properly utilized. In its last report, the Government once again indicates that a legislative reform is being undertaken and that the Workmen's Compensation Ordinance is one of the laws which will be examined. The Committee notes this information. *It trusts that, in the context of the process of revising the labour legislation, the Government will not fail to take all the necessary measures to amend the Workmen's Compensation Ordinance so as to ensure that effect is given to this provision of the Convention. Please provide a copy of any text adopted to this effect.*

The Committee also requests the Government to supply general information on the manner in which the Convention is applied in practice including, in so far as statistical information is available, particulars on the numbers of persons covered by the legislation, the amount of the benefits paid and the number of accidents reported, in accordance with Part V of the report form.

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

United Kingdom

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1949)

Article 9 of the Convention. Cost sharing. In reply to earlier comments by the Committee concerning the cost-sharing by victims of industrial accidents to the cost of pharmaceutical products prescribed outside hospitalization, the Government once again indicates that the provisions of the National Health Service Act regarding reimbursement of pharmaceutical expenses are fair to the extent that they target assistance towards those persons in the greatest financial difficulties. The Government remains convinced that the victims of occupational accidents in this category will be adequately protected by the above legislation. It further undertakes to ensure that over the course of the next three years increases in cost sharing will not exceed the inflation rate.

While it once again takes due note of this information, the Committee reminds the Government that any provision providing for cost-sharing by the victim of an occupational accident in the cost of prescribed pharmaceutical products is not in conformity with *Article 9* of the Convention, as the aim of this provision is to prevent the financial consequences derived from the occupational injury being borne by the worker. In this connection, information previously communicated by the Government shows that, firstly, victims of occupational injuries are not required to share in the costs of prescribed pharmaceutical products when they are in a hospital or when their income is beneath a certain limit and, secondly, many categories of insured persons are exempt from cost sharing in respect of pharmaceutical products, irrespective of their level of income. Also, under the existing prescription prepayment arrangements (PPC), persons with paid annual or four-monthly certificates are exempted from the payment of prescription charges for the corresponding period. As a result of these arrangements, only 8.4 per cent of items are paid for at the point of dispensing. ***Taking these exemptions into account, the Committee still considers that the Government should be able to include all victims of occupational accidents, irrespective of their income level, within the category of insured persons exempt from cost sharing so that pharmaceutical assistance dispensed outside hospital is provided free of charge to all victims of industrial accidents. The Committee trusts that the Government will re-examine this question and take the measures necessary to ensure the full implementation of the Convention on this point.***

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1936)

The Committee notes the information provided by the Government in its report referring, among other issues, to the modifications made to the national list of occupational diseases. With reference to its previous comments, it notes in particular with satisfaction the 2005 amendment to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations, 1985, including among the occupations liable to cause anthrax infection the handling, loading, unloading or transport of animals of a type susceptible to infection with anthrax or of the products or residues of such animals. The Committee also notes that the Industrial Injuries Advisory Council (IIAC) is currently undertaking an overall review of the list of occupational diseases for which benefits are paid in order to update and simplify it and that the principles of Convention No. 42 will be borne in mind in this context.

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

Anguilla

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

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

In its earlier comments, the Committee had drawn attention to Ordinance No. 21 of 1955 on compensation for occupational injuries, which does not give full effect to certain provisions of the Convention. Thus, on the one hand, section 2(1)(a) of the Ordinance excludes from its scope manual workers whose earnings exceed a certain limit, contrary to *Article 2(2)(d) of the Convention* which only authorizes this type of exclusion for non-manual workers and, on the other hand, section 8(a), (b) and (c) of the same Ordinance provides that, in the event of death or permanent incapacity, compensation shall be paid to the victim in the form of a lump sum, while *Article 5* of the Convention guarantees compensation for the victim or his dependants in the form of periodical payments. Such compensation may however be wholly or partially paid in a lump sum if the competent authority is satisfied that it will be properly utilized.

In its report, the Government indicates that the draft legislation placing compensation for occupational injuries under the social security scheme has still not been implemented. However, sickness and survivors' benefits are granted to victims of occupational accidents or their dependants under social security legislation without taking the occupational origin of the incident into account.

While noting this information, the Committee recalls that in its 1991 observation it drew the Government's attention to the fact that the right to sickness, disablement and survivors' benefits granted under the social security legislation (Social Security (Benefits) Regulations, 1981) is conditional upon a minimum qualifying period, which is contrary to the Convention. ***Given these***

circumstances, the Committee hopes the Government will take all the measures necessary to ensure full application of Articles 2 and 5 of the Convention, either by establishing an employment industry benefit scheme under the social security scheme in conformity with the Convention, or by amending section 2(1)(a) and section 8(a), (b) and (c) of Ordinance No. 21 of 1955 on compensation for occupational accidents in the light of the above comments. The Committee trusts that the Government's next report will indicate progress achieved in this connection.

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

Bermuda

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

Please refer to comments made under Convention No. 17.

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

Article 5 of the Convention. Compensation in the form of periodical payments. Since 1994, the Government indicates in its reports that a complete revision of the Workmen's Compensation Act, 1965 (WCA), is projected in order to address the points covered by *Article 5* of the Convention. In its last report, the Government points out that the revision of the above Act is still under consideration and that it has been referred for review to a subcommittee of the Labour Advisory Council, an advisory group consisting of labour stakeholders.

While it takes due note of this information, the Committee recalls that the non-conformity of national legislation with the requirements of *Article 5* of the Convention has repeatedly been emphasized since 1978. *The Committee therefore hopes that, in the very near future, the Government will amend the WCA so as to give effect to this provision of the Convention by virtue of which the compensation payable to the injured workman, or his dependants, where permanent incapacity or death results from the injury, shall be paid in the form of periodical payments provided that it may be wholly or partially paid in a lump sum, if the competent authority is satisfied that it will be properly used. The Committee requests the Government to indicate in its next report any progress achieved in this respect.*

[The Government is asked to reply in detail to the present comments in 2008.]

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 12** (Serbia, United Republic of Tanzania); **Convention No. 17** (Czech Republic, Latvia, Malaysia: Peninsular Malaysia, Mexico, Morocco, Nicaragua, Philippines, Portugal, Sao Tome and Principe, Slovakia, United Republic of Tanzania, United Kingdom: Guernsey, United Kingdom: Jersey, United Kingdom: St. Helena, Zambia); **Convention No. 18** (Latvia, Portugal, Tunisia); **Convention No. 19** (Angola, Cyprus, Kenya, Republic of Korea, Lithuania, Malawi, Mali, Morocco, Nigeria, Saint Lucia, Sao Tome and Principe, Senegal, Trinidad and Tobago, United Kingdom: Bermuda, Yemen, Zimbabwe); **Convention No. 24** (Bosnia and Herzegovina, Latvia, Nicaragua); **Convention No. 25** (Bosnia and Herzegovina, Nicaragua); **Convention No. 35** (France); **Convention No. 36** (France); **Convention No. 42** (Czech Republic, France, Morocco, Myanmar, Slovakia, United Kingdom, United Kingdom: Jersey); **Convention No. 102** (Belgium, Denmark, France, Germany, Greece, Ireland, Mexico, Peru, Poland, Portugal, Senegal, Spain, Switzerland, Turkey); **Convention No. 118** (Cape Verde, France, Guinea, Italy, Sweden); **Convention No. 121** (Serbia, Slovenia, Sweden); **Convention No. 128** (Germany); **Convention No. 130** (Germany, Luxembourg); **Convention No. 157** (Philippines, Spain, Sweden); **Convention No. 168** (Norway, Switzerland).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 12** (Latvia, Malaysia: Peninsular Malaysia, Malaysia: Sarawak, Morocco, Slovakia); **Convention No. 17** (Mauritania); **Convention No. 18** (Mali); **Convention No. 24** (Lithuania, United Kingdom, United Kingdom: Guernsey); **Convention No. 25** (United Kingdom: Guernsey); **Convention No. 42** (South Africa); **Convention No. 102** (Czech Republic); **Convention No. 118** (Kenya); **Convention No. 121** (Germany); **Convention No. 128** (Czech Republic); **Convention No. 130** (Czech Republic, Norway).

Maternity Protection

Bolivarian Republic of Venezuela

Maternity Protection Convention, 1919 (No. 3) (ratification: 1944)

Articles 1 and 3(c) of the Convention. In its previous comments, the Committee recalled the need to take all the necessary measures to extend in practice the social security system in relation to maternity benefits, for both medical care and cash benefits, throughout the national territory to ensure that all women workers employed in industrial or commercial enterprises, whether public or private, covered by the scope of application of the Convention, benefit from the protection afforded by this instrument. In practice, the Organic Act on the social security system of 6 December 2002 guarantees the right to social security for all Venezuelan citizens resident on the national territory and all foreign nationals legally resident in the country, although this right will only be implemented progressively following a transition period.

In its last report, the Government provides detailed information on the provision of medical care throughout the country. It indicates that the objective of the action taken by the Government is to provide better maternity protection, not only to women workers, but also to all of the population who were hitherto excluded, including in particular the indigenous population and housewives. Moreover, on 14 December 2004, the National Assembly adopted on first reading a new Bill on health and the national public health system, the objective of which is to organize the exercise of the constitutional right to health and access to health care, without discrimination of any sort, through the institutions of the public health system. With regard to health-care establishments, the Government refers to the “*Barrio Adentro*” missions which are intended to establish a health system based, among others, on the principles of free and universal care. Through these missions it has been possible to establish, at the national level, a network of health care providers covering nearly 17 million persons throughout the country in some 8,500 consultations centres, involving around 13,000 doctors and 8,500 nursing auxiliaries. The services provided include pre- and postnatal care. The Government also refers to the establishment of ten people’s clinics, 30 integrated diagnosis centres and 30 integrated rehabilitation units which provide medical care free of charge with the priority objectives, among others, of decreasing maternal and infant mortality. Furthermore, the hospital network throughout the national territory has been strengthened and modernized. In total, there are around 299 hospital centres of various types in the country which will be regrouped in the near future under the title of people’s hospitals. The Government adds that it will provide information on all the changes made to the national legislation once the new social security system is operational following the transition period.

The Committee notes this information with interest and would be grateful if the Government would continue to keep it informed of the development of the health system in general and of care related to maternity in particular. It would also be grateful if the Government would provide statistical information on the implementation of the maternity protection scheme at the national level, with an indication of the parts of the territory in which the provision of medical care and maternity cash benefits could still give rise to difficulties.

Furthermore, as this information has not yet been provided by the Government, the Committee would also be grateful to be provided with: (i) statistical information on the number of women workers employed in public or private industrial or commercial establishments who are covered by comprehensive social security in relation to the total number of such women workers; (ii) statistical information on the payment of maternity cash benefits to women workers employed in public or private industrial or commercial establishments throughout the national territory, and region by region; and (iii) detailed information on the implementation in practice of the Organic Act on the social security system adopted in 2002, and copies of all laws and regulations adopted to give effect to the Act.

The Committee is raising certain other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 3** (Côte d’Ivoire, Gabon, Bolivarian Republic of Venezuela); **Convention No. 103** (Zambia); **Convention No. 183** (Lithuania).

Social Policy

Ghana

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1964)

1. *Parts I and II of the Convention. Improvement of standards of living.* The Committee notes the Government's report, received in October 2005, containing information on the implementation of the Ghana Poverty Reduction Strategy (GPRS), which aims at developing infrastructures, modernizing agriculture, focusing mostly on rural development, and increasing the funds assigned to education and health. It notes with interest the lowering of the lending interest rates in 2005, from 35 to 15 per cent, which encourages the creation of small and medium enterprises. The Government indicates that it is implementing a soft credit scheme to boost the creation of small and medium enterprises, with no need to provide collateral and with lower interest rates. The Committee notes that it is the National Tripartite Committee that determines the national daily minimum wage and ensures, together with collective bargaining, a minimum standard of living, taking into account essential family needs (*Article 5 of the Convention*). It further notes the Presidential Special Initiative that encourages farmers to stay in rural areas by implementing low-cost housing and by constructing roads in cocoa and agricultural regions. The Ministry of Food and Agriculture is also allocating funds for the cultivation and processing of sunflowers for export to create more employment (*Article 3*). ***The Committee asks the Government to continue providing information in its next report on the measures taken to ensure that the general principles and basic aims of the Convention remain a key component of its poverty reduction strategy.***

2. *Part IV. Remuneration of workers.* In relation to its previous comments, the Committee notes with interest the adoption of the Labour Act of 2003 and, more particularly, section 67, which provides that the employer must pay the whole of the salary, wages and allowances to the worker in legal tender, which obligation has to be stated in the working contract, in conformity with *Article 11, paragraphs 2, 3 and 8(a)* of the Convention. It also notes section 71 of the Labour Act, which prohibits the employer to coerce the worker to make use of the store or service, and section 69 of the Labour Act that stipulates that an employer shall not make deduction in anticipation of the regular period of payment of remuneration, in conformity with *Article 11, paragraphs 5, 8(b) and (c)*, of the Convention, respectively. The Convention further requires that necessary measures have to be taken to ensure the proper payment of all wages earned and stipulates in *Article 11, paragraph 1*, that the employer shall be required to keep registers of wage payments. ***The Committee therefore asks the Government to indicate, in its next report, what measures are envisaged or taken to ensure the proper payment of the workers, namely ones ensuring that the payment of remuneration is done on a regular basis so as to lessen the likelihood of indebtedness among the workers (Article 11, paragraph 6). It would also be grateful if the Government would indicate the measures in place or envisaged to prohibit the replacement of money payment by alcoholic beverage and to ensure that food, lodging and other essential supplies and services provided which from part of the remuneration are adequate (Article 11, paragraphs 4 and 7).***

3. *Advances on wages.* The Committee notes that section 70(b) of the Labour Act allows the employer to make deductions on any financial facility he advanced to the worker at the written request of the worker, or which is guaranteed by the employer to the worker. ***The Committee asks the Government to provide further information on the maximum amount of repayment of advances authorized, as well as on the limit of advances made to a worker in consideration of his taking up employment, as required by Article 12, paragraphs 2 and 3.***

Paraguay

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1969)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its 2005 observation, which read as follows:

1. *Parts I and II of the Convention. Improvement of standards of living.* The Committee notes with regret that the Government's report has not been received. The Committee notes the reference to Convention No. 117 in the observations by the Dockers' Trade Union of Asunción (SEMA) and the Maritime Workers League of Paraguay (LOMP), sent to the Government in May 2005, concerning the application of Convention No. 98. ***The Committee refers to its direct request of 2001 on Convention No. 117 and requests the Government to send an up to date appreciation of the manner in which it is ensured that "improvement in standards of living" has been regarded as the "principle objective in the planning of economic development" (Article 2) and to provide information on the results achieved in combating poverty.*** The Committee reminds the Government that, according to the Convention, in order to ascertain minimum standards of living for independent producers and wage earners, "account shall be taken of such essential family needs of the workers as food and its nutritive value, housing, clothing, medical care and education" (*Article 5, paragraph 2*).

2. *Part III. Migrant workers.* ***The Committee requests the Government to provide information on migration movements in the country and on the measures taken to give effect to Articles 6 and 7 of the Convention.***

3. *Part VI. Education and training. Please indicate the measures that have been taken for the progressive development of education, vocational training and apprenticeship and the manner in which the teaching of new production techniques has been organized as part of the social policy giving effect to the Convention (Articles 15 and 16).*

[The Government is asked to reply in detail to the present comments in 2007.]

Zambia

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1964)

1. *Parts I and II of the Convention. Improvement of standards of living.* The Committee notes that the report received in May 2006 substantially reproduces the information already contained in previous reports. It notes that Zambia has established a poverty reduction strategy and is also obliged to implement an active employment policy within the meaning of the Employment Policy Convention, 1964 (No. 122). ***The Committee refers to its observation of 2006 on Convention No. 122 and requests the Government to send an up to date appreciation of the manner in which it ensures that the “improvement in standards of living” has been regarded as the “principal objective in the planning of economic development” (Article 2 of Convention No. 117) and to provide information on the results achieved in combating poverty.*** The Committee reminds the Government that, in accordance with the Convention, in order to ascertain minimum standards of living for independent producers and wage earners, “account shall be taken of such essential family needs of the workers as food and its nutritive value, housing, clothing, medical care and education” (Article 5, paragraph 2).

2. *Part III. Migrant workers. The Committee requests the Government to provide information on migration movements in the country and on the measures taken to give effect to Articles 6 and 7 of the Convention.*

3. *Part VI. Education and training. Please indicate the measures that have been taken for the progressive development of education, vocational training and apprenticeship, and the manner in which the teaching of new production techniques has been organized as part of the social policy giving effect to the Convention (Articles 15 and 16).*

[The Government is asked to reply in detail to the present comments in 2007.]

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 117** (*Democratic Republic of the Congo, Georgia, Guatemala*).

Migrant Workers

Uganda

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) ***(ratification: 1978)***

The Committee recalls its previous observation in which it expressed concern over the slow progress made with respect to the adoption of legislation that would include measures against clandestine migration movements and provide for equal treatment and opportunity between migrant workers and nationals. The Committee had expressed the hope that the revised legislation would also impose penal sanctions against the organizers of clandestine movements of migrants or against those who employ such workers, in accordance with *Articles 3(b) and 6(1) of the Convention*, and that it would ensure that migrant workers have free choice of employment in accordance with *Articles 10 and 14(a) of the Convention*. The Committee notes the Government's statement that the new Employment Act, which is currently awaiting Presidential assent, will cover the concerns raised by the Committee, and that a copy of the text will be supplied to the Office. ***The Committee looks forward to receiving a copy of the new Employment Act and hopes that it will be able to note at its next session significant progress with respect to the matters raised above.***

Direct requests

In addition, a request regarding certain points is being addressed directly to **Convention No. 97 (Spain)**.

Seafarers

Introductory remarks

The Committee welcomes the adoption in February 2006 of the Maritime Labour Convention, 2006, which consolidates the substance of almost all the maritime labour instruments adopted since 1920 and will eventually replace them when the goal of rapid entry into force and widespread ratification is achieved. The Committee notes, in particular, the comprehensive scope of the Maritime Labour Convention, from two important points of view: first, the Convention covers all aspects of the working and living conditions of seafarers, at present dealt with in several different instruments; and second, the obligation of Members that ratify the Convention is not only to implement the principles and rights set forth in the different areas covered in Titles 1 to 4 of the Convention, but also to take the necessary steps, set out in Title 5 of the Convention, to ensure compliance with the requirements of the Convention on ships and with respect to seafarers under their jurisdiction, with adequate documentation and certification of that compliance.

The Committee considers that the Maritime Labour Convention will assist its own action in reviewing the application of the Convention in countries which are effectively implementing the provisions relating to compliance. At the same time, the Committee will need to give special consideration as to how it will carry out its mandate with respect to reports on the application of this Convention having regard to the new approaches contained in it to facilitate the widespread ratification of such a comprehensive Convention. In particular, while its provisions seek to maintain the same level of protection as that provided in the Conventions which it consolidates, the Maritime Labour Convention gives ratifying Members considerable discretion as to the precise ways in which its requirements are implemented in their respective national law and practice. Where a ratifying Member decides, after due consideration as required by the Convention, to implement its basic obligations through provisions or measures whose details differ from those set forth in the Convention, the Committee will be called upon to assess whether or not the detailed provisions or other measures that the Member decides to adopt are sufficient to implement the basic obligations concerned. This will be a challenging task for the Committee, requiring reference to the object and purpose of the mandatory provisions of the Maritime Labour Convention, as well as to their scope having regard to the detailed guidance provided in the Convention.

Chile

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1935)

The Committee notes the information communicated by the Government. It draws the Government's attention to the following points.

Article 9, paragraph 1, of the Convention. Termination of the agreement. Pursuant to section 120 of the Labour Code, "no crew member may give up his work without the agreement of the maritime or consular authority of the port in which the vessel is located". The Committee recalls that an agreement for an indefinite period may be terminated by either party in any port where the vessel loads or unloads, provided that the period of notice specified in the agreement has been observed. The Committee therefore requests the Government to take the necessary steps to bring national legislation and practice into line with these provisions of the Convention.

Article 12. Immediate discharge. In its previous comments, the Committee reminded the Government that section 159(2) of the Labour Code, which requires the worker to give 30 days' notice to terminate his employment contract, was inconsistent with the provisions of the Convention requiring Members to determine the circumstances in which the seafarer may demand his immediate discharge. The Government indicates that the Labour Directorate issued a number of legal opinions in 1991 and 1993, in which it stated that the non-respect of the 30 days' notice requirement does not imply any penalty for the worker. A seafarer could therefore give up his work and request to be discharged whenever he so wished, unless the vessel is out at sea. The Government emphasizes the fact that the 30 days' notice requirement, envisaged in national legislation, is only equivalent to the period of time considered necessary to make arrangements for the replacement of the worker. The Committee notes, however, that section 77 of the Navigation Act prohibits any person aboard a Chilean vessel from disembarking without the prior consent of the maritime or consular authority when the vessel concerned is in foreign territory. It recalls that national law shall provide the measures to ensure compliance with the terms of the Convention (*Article 15*). Moreover, pursuant to *Article 12*, national law shall also determine the circumstances in which the seafarer may demand his immediate discharge. The fact that there are legal opinions stating that the non-respect of the notice requirement envisaged in section 159(2) of the Labour Code implies no penalty for the worker is not enough to ensure compliance with the Convention, but should certainly facilitate the amendment of national legislation. **The Committee therefore requests the Government to take the necessary steps to bring national legislation and practice into line with these provisions.**

Article 14, paragraph 2. Certificate as to the quality of the seafarer's work. The Government indicates that, since the Convention is legally binding in Chile, the master is required, even in the absence of legal provisions in this regard, to provide the seafarer with a separate certificate as to the quality of his work or, failing that, a certificate indicating whether

he has fully discharged his obligations under the agreement. With reference to paragraphs 182 and 186 of the 1990 General Survey on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), the Committee recalls, however, that the essential provisions of this Convention, in particular the provisions set forth in Articles 10–14, aim to establish adequate protection for the seafarer at the time when the employment relationship ends, and “call specifically for laws rather than other methods of application”; although “some minor points could be established by the alternative methods”. *The Committee therefore requests the Government to take the necessary steps to bring national legislation into line with this provision.*

Egypt

Placing of Seamen Convention, 1920 (No. 9) (ratification: 1982)

The Committee notes the Government’s detailed report. In response to the Committee’s previous comments regarding the Governing Body’s invitation to member States that have ratified Convention No. 9 to consider the possibility of ratifying the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), the Government indicates its preference to postpone the ratification of Convention No. 179 until the finalization of an ongoing project for the improvement of existing and development of new employment offices for seafarers, which would help overcome several obstacles to ratification. With reference to its comments below, *the Committee asks the Government to keep it informed of any changes in the Government’s position with regard to the ratification of Convention No. 179.*

Article 2 of the Convention. Prohibition of fees. Section 21 of the Labour Code of 2003 provides that recruitment agencies under section 17 are not authorized to receive from workers any fees for finding employment. According to the same provision, however, they may obtain such fees from the employer and, exceptionally, certain recruitment agencies (section 17(e)) may even charge a sum not exceeding 2 per cent of a worker’s pay during the first year of employment to cover administrative expenses. The Committee recalls that this Convention contains an absolute prohibition to carry on the business of finding employment for seafarers as a commercial enterprise for pecuniary gain. *The Committee therefore requests the Government to prohibit any person, company or other agency from charging, directly or indirectly, any fees for finding employment for seafarers, irrespective of their administrative or other nature, thus bringing legislation into conformity with Convention No. 9.*

Article 4. Public employment offices for finding employment for seafarers. Section 17 of the Labour Code of 2003 enumerates the bodies exercising operations of recruitment of Egyptian workers in Egypt and abroad. The Committee notes that, among the enumerated entities, there are also joint stock companies, partnerships limited by shares or limited liability companies holding a licence issued by the ministry concerned. The Committee reminds the Government that, contrary to Convention No. 179, which allows for the operation of private recruitment and placement services for seafarers within a system of licensing or certification or other form of regulation, this Convention requires that a system of employment offices for finding employment for seafarers be organized and maintained, either: (a) by representative associations of shipowners and seafarers jointly under the control of a central authority; or (b) in the absence of such joint action, by the State itself. No other form of employment or recruitment agency is permitted. *The Committee requests the Government to take the necessary measures to ensure that the system of employment offices for finding employment for seafarers is organized and maintained by representative associations of shipowners and seafarers jointly under the control of a central authority, or by the State itself.*

Article 5. Advisory committees. According to sections 11 and 26 of the Labour Code as well as Decree 1184/2003, the Higher Committee for Planning and Employment of Manpower inside and outside of Egypt (HCPem) comprising representatives of the Government, employers’ and workers’ organizations has been set up to formulate a general policy for the placement of manpower in Egypt and abroad, and lay down the necessary regulations and procedures. The Government report indicates that the HCPem has initiated an ongoing project concerning offices for the placement of seafarers, which includes changes in their working methods, upgrading of equipment, setup of new offices and training of personnel. *The Committee strongly hopes that, in the context of the project triggered by the HCPem, the Government will make every effort to give effect to this Article of the Convention in the very near future, by constituting advisory committees consisting of an equal number of representatives of seafarers and shipowners that may be consulted on matters concerning the carrying on of employment offices for seafarers.*

Greece

Accommodation of Crews Convention (Revised), 1949 (No. 92) (ratification: 1986)

The Government indicated hitherto that the provisions of the Convention were given effect by Decrees No. 187/73 codifying the Public Maritime Act and No. 806/70 on regulation of work on board cargo vessels as well as by Presidential Decrees Nos. 259/81 and 236/96 on the accommodation of crew members and masters of Greek merchant vessels. In its latest report, the Government indicates that henceforth, under section 2 of Presidential Decree No. 236/96, the provisions contained in Decree No. 259/81 govern only questions not covered by the Convention. According to section 28(1) of the Greek Constitution, in fact, international Conventions are directly applied. Once ratified, they carry force of law without

any need to transpose them into national law. The Committee nevertheless emphasizes that certain provisions of the Convention are of a general nature and require the establishment of national legislation for their application. Hence, under *Article 3 of the Convention*, “each Member for which this Convention is in force undertakes to maintain in force laws or regulations which ensure the application of the provisions in *Parts II, III and IV* of this Convention”. Such legislation shall, in particular: (a) require the competent authority to bring it to the notice of all persons concerned; (b) define the persons responsible for compliance therewith; (c) prescribe adequate penalties for any violation thereof; (d) provide for the maintenance of a system of inspection adequate to ensure effective enforcement; and (e) require the competent authority to consult the organizations of shipowners and/or the shipowners and the recognized bona fide trade unions of seafarers in regard to the framing of regulations, and to collaborate so far as practicable with such parties in the administration thereof. ***Consequently, the Committee requests the Government to take the necessary measures to ensure that legislation giving effect to the provisions of the Convention is enacted.***

In addition, the Committee is raising certain technical matters in a request addressed directly to the Government.

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) (ratification: 1986)

The Government has stated hitherto that the provisions of the Convention were applied by Decrees No. 187/73 codifying public maritime law and No. 806/70 on regulation of work on board cargo vessels, as well as by Presidential Decrees Nos. 259/81 and 236/96 on accommodation of crew members and masters of Greek merchant vessels. In its latest report, the Government indicates, however, that under section 2 of Presidential Decree No. 236/96, the provisions of Decree No. 259/81 regulate only matters not covered by the Convention. Under article 28, paragraph 1, of the Greek Constitution, international conventions are directly applicable. Once ratified, they have the force of law without the need for transposition into national legislation. The Committee emphasizes, nevertheless, that certain provisions of the Convention are of a general nature and require the enactment of national legislation for their application. Under *Article 4 of the Convention*, “each Member for which this Convention is in force, undertakes to maintain in force laws or regulations which ensure its application”. This legislation shall, in particular: (a) require the competent authority to bring it to the notice of all persons concerned; (b) define the persons responsible for compliance therewith; (c) prescribe adequate penalties for any violation thereof; (d) provide for the maintenance of a system of inspection adequate to ensure effective enforcement; and (e) require the competent authority to consult the organizations of shipowners and/or the shipowners and the recognized bona fide trade unions of seafarers in regard to the framing of regulations, and to collaborate so far as practicable with such parties in the administration thereof. ***The Committee therefore asks the Government to take the necessary measures to ensure that legislation giving effect to the provisions of the Convention is enacted.***

In addition, the Committee is raising certain technical matters in a request addressed directly to the Government.

Guinea

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (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:

For many years, the Committee has been asking the Government to indicate the specific instruments that govern the prevention of occupational accidents of seafarers. The Government has so far indicated that appropriate regulatory texts were in preparation and would be reviewed with the technical assistance of the ILO to ensure their compliance with the provisions of the Convention. In its last report, the Government refers only to the provisions of the Labour Code and Merchant Navy Code, noting that they provide for the adoption of regulations on occupational safety and health. The Government also indicates that the authorities responsible for framing and supervising maritime regulations were also to draft a whole series of texts in this area. The Committee points out that Guinea ratified this Convention 28 years ago, in 1977. It also points out that the provisions of the national legislation are general in nature and do not always ensure that full effect is given to the provisions of the Convention. ***Consequently, the Committee once again expresses the hope that the Government will make every effort to ensure that texts giving full effect to the Convention are adopted in the very near future. It requests the Government to provide a copy of them as soon as they have been enacted.***

Part IV of the report form. The Committee requests the Government to indicate whether the courts of law or any other tribunals have handed down decisions involving matters of principle pertaining to the application of the Convention and, if so, to provide copies of them with its next report.

Part V of the report form. The Committee also asks the Government to provide general information on the manner in which the Convention is applied, supplying extracts of reports by the inspection services, information on the number of workers covered by the legislation, and the number and nature of contraventions and of occupational accidents reported.

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

Guinea-Bissau

Certification of Ships' Cooks Convention, 1946 (No. 69) (ratification: 1977)

The Committee notes the Government's report and the fact that there is no naval school in the country and therefore the certificates of qualification are internal only. *The Committee hopes that the state services and national institutions will soon be operating normally again, and that the necessary legislation and practical measures to implement the Convention will be put in place. The Committee requests the Government to keep it informed about all progress made in this respect, and to continue to provide information with respect to its previous observation regarding Article 3, paragraph 2, and Article 4 of the Convention, as well as Part V of the report form.*

Liberia

Seamen's Articles of Agreement Convention, 1926 (No. 22) (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 the Government's statement in its report that the Committee's comments have been referred to the Bureau of Maritime Affairs with instructions that the commission should review the provisions of the maritime laws and regulations with the aim of having them conform with the provisions of the Convention. *The Committee hopes that the necessary measures will be taken to apply the Convention in law and in practice and that the Government will provide full particulars on any progress achieved, taking into consideration the Committee's comments since 1995 on Article 3, paragraph 4, Article 9, paragraph 2, Article 13 and Article 14, paragraph 2, of the Convention.*

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

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55) (ratification: 1960)

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

Article 1, paragraph 2, of the Convention. In reply to the Committee's previous comments, the Government refers to the provisions of section 51 of the Maritime Law concerning vessels which can be registered under Liberian law. *In this regard, the Committee wishes to draw the Government's attention to the fact that its comments concerned section 290-2 of the Law, which provides that persons employed on vessels of less than 75 net tons are not covered by the provisions of Chapter 10 of the Law relating specifically to the obligations of the shipowner in the event of seafarers' sickness or accident.*

Article 2, paragraph 1. The Committee noted that section 336-1 of the Maritime Law provides for payment of the wages, maintenance and medical care of the seaman in cases of sickness or accident while he is off the vessel provided that he is "off the vessel pursuant to an actual mission assigned to him by, or by the authority of, the master". *The Committee recalls that under this provision of the Convention the shipowner is liable in all cases of sickness and injury occurring between the date specified in the articles of agreement for reporting for duty and the termination of the engagement.*

Article 6, paragraph 2. The Committee noted that, contrary to this provision of the Convention, the approval of the competent authority is not required when a sick or injured seaman has to be repatriated to a port other than the port at which he was engaged, or the port at which the journey commenced, or a port in his own country or the country to which he belongs. Under section 342-1(b) of the Maritime Law, agreement between the seafarer and the master or shipowner suffices. The Government states that if there is agreement between the parties, administrative authorization is not necessary but that, in the event of disagreement, the parties may submit the matter to the Commissioner of Maritime Affairs by virtue of section 359 of the law. *The Committee wishes to draw the Government's attention to the need to include provisions in its legislation making it compulsory to seek the approval of the competent authority when the parties agree to a port of repatriation other than those laid down in Article 6, paragraph 2(a), (b) or (c), of the Convention.* In fact, the provisions of this Article of the Convention are designed to protect a sick or injured seafarer by preventing the master or the shipowner imposing on him a port of repatriation other than the port at which he was engaged, the home port of the vessel or a port in his own country or the country to which he belongs, without the approval of the competent authority; in the event of disagreement between the parties, an appeal to a conciliation authority is not sufficient in itself.

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

Minimum Age (Sea) Convention (Revised), 1936 (No. 58) (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 comments the Committee noted that section 326(1) of the Maritime Law, as amended, set 15 years as the minimum age for admission to employment or work on Liberian vessels registered in accordance with section 51 of the Maritime Law. Noting however that section 326(3) permits persons under the age of 15 to occasionally take part in the activities on board such vessels, the Committee has requested the Government in comments repeated since 1995 to indicate how such special employment is limited to persons of not less than 14 years of age, taking into account all the conditions set forth in *Article 2, paragraph 2, of the Convention.*

Noting that the Government has submitted the matter to the Commissioner of the Bureau of Maritime Affairs with the instruction that the necessary steps be taken to make the required information available, the Committee hopes that such information will soon be provided.

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

Accommodation of Crews Convention (Revised), 1949 (No. 92) (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:

Please refer to the comment made under the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133).

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

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) (ratification: 1978)

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

In the 89th Session of the International Labour Conference in June 2001 a Government representative indicated that the first report would be submitted to the Committee in the near future. In agreement with the findings of the Conference Committee on the Application of Standards during that Session of the International Labour Conference, the Committee reiterates the crucial importance of submitting first reports on the application of ratified Conventions and urges the Government to submit the report for the attention of the Committee at its next session.

The Committee notes the Government's response to the comments made by the Norwegian Union of Marine Engineers (NUME) that alleges non-observance by Liberia of Convention No. 92 and Convention No. 133. The Committee notes, in particular, the Government's indication that the ship "Sea Launch Commander" serves as the command ship, i.e. "mission control", for the launching of rockets from the seagoing launch platform M/S Odyssey. The rockets are assembled in the assembly bay of the "Sea Launch Commander" while the ship is in port moored to a dock and then transferred to M/S Odyssey. The Government points out that the "Sea Launch Commander" neither transports cargo or passengers for the purpose of trade nor does it engage in other traditional commercial activity while seagoing. According to the Government, the primary functions of the "Sea Launch Commander" are to serve as the assembly facility for the rockets when the ship is moored to the dock in port and to serve as command ship for the launching of rockets from the M/S Odyssey when the ships are at sea.

The Government considers that, based on the nature of its operations, the "Sea Launch Commander" is not a seagoing vessel for the purpose of trade or commercial activity in the sense envisioned by the relevant ILO Conventions. Therefore, it is the Republic of Liberia's determination that the aforementioned ILO Conventions do not apply to this ship and that the NUME complaint is neither appropriate nor applicable to the "Sea Launch Commander", and its "statement of claim" to the ILO is, therefore, without merit.

The Committee recalls that Convention No. 133 applies to every seagoing ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose, which is registered in a territory for which this Convention is in force (*Article 1, paragraph 1, of the Convention*). National laws or regulations shall determine when ships are to be regarded as seagoing ships for the purpose of this Convention (*Article 1, paragraph 2*). Under *Article 1, paragraph 1*, the Convention applies "to every seagoing ship ... employed for any other commercial purpose" and does not distinguish between traditional and non-traditional commercial activities.

Referring also to its 2002 observation, the Committee asks the Government to clarify: (i) whether the ship "Sea Launch Commander" under national laws or regulations is regarded as a "seagoing ship"; (ii) whether national laws or regulations contain the definition of the term "commercial activity"; and (iii) whether the launching of rockets from the seagoing launch platform M/S Odyssey is carried out for a commercial purpose.

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

Luxembourg

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1991)

Article 4, paragraph 2, of the Convention. Statement. The Committee notes with interest that the Government is in compliance with the obligation to indicate on seafarers' identity documents that they are issued for the purpose of the Convention.

Article 5. Readmission to the territory. The Committee notes the Government's statement in its reply to the last direct request that the ratification of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), was under examination. In this respect, *the Committee requests the Government to keep it informed of the progress achieved by the working group*. While awaiting a decision concerning ratification, the Committee is bound to return to the application of the present Convention and to reiterate the questions that it raised in previous comments.

Consequently, in a request addressed directly to the Government, the Committee asks it to follow up the matters raised therein.

Mexico

Placing of Seamen Convention, 1920 (No. 9) (ratification: 1939)

The Committee notes the adoption of the Regulations of 3 March 2006 on workers' placement agencies and the Agreement of 27 April 2006 on administrative formalities for the establishment of such agencies. It nonetheless draws the Government's attention to the points below.

Article 2, paragraph 1, of the Convention. Placement of seafarers to be free of charge. For several years, the Government has been stating in its reports that there are no free placement agencies specifically for seafarers. Upon qualifying, seafarers have several options for finding employment: they may join unions that have concluded collective agreements with maritime companies; apply directly to a vessel; or resort to the National Training and Employment Service or to a free placement agency open to all workers. The recently adopted Regulations on Workers' Placement Agencies set up a system under which private fee-charging placement agencies and non-profit placement agencies exist side by side. They are open to all workers and hence, to seafarers. Section 10(I) of the Regulations nonetheless specifies that the agencies may not ask for fees from workers who use their services. The placement fees thus appear to be borne by the employers, at least in the case of private fee-charging agencies. Nevertheless, section 10(IV) of the Regulations bars private non-profit agencies from demanding any payment from employers.

In its report, the Government states that the Senate expressed itself against ratification of the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), which allows private agencies to place seafarers provided that they demand no fees from them. The Committee reminds the Government that Convention No. 9 does not allow the placement of seafarers for gain. Neither shipowners nor seafarers must be required to pay fees. The incorporation in the national legislation of a provision prohibiting agencies from charging seafarers is not enough to ensure that this provision of the Convention is applied. The Committee further points out that each Member is to set up an efficient and adequate system of free, and normally public, employment offices for finding employment for seafarers (*Article 4*). It also points out that any exemptions authorized under *Article 3* to the rule against placement for pecuniary gain must be temporary, and the Government must take all necessary steps to abolish as soon as possible the placement of seafarers as a commercial enterprise for pecuniary gain. Mexico ratified the Convention 67 years ago, in 1939, yet the existence of private placement agencies for seafarers has been legalized by the new text. ***The Committee therefore requests the Government to take the necessary steps to bring its legislation and practice into line with the Convention. It asks the Government to ban the placement of seafarers as a commercial enterprise for pecuniary gain and to ensure that only non-fee-charging, and normally public, agencies are authorized to find employment for seafarers.***

Article 5. Advisory committees. The Government has for many years been referring to the provisions of section 539A of the Federal Labour Act which provides that the Secretariat of Communications and Transport, the authority competent for the placement of workers, shall be assisted in its work by an advisory council made up of representatives from the public sector, and national organizations of workers and employers. The Convention, however, provides that committees consisting of an equal number of representatives of shipowners and seafarers shall be constituted to advise on matters concerning the operation of free and public agencies for the placement of seafarers. There are, however, no such agencies in the country, since the above body does not fulfil the requirements of the Convention. ***The Committee therefore asks the Government to take the necessary steps to bring the legislation and practice into line with this Article.***

In 2005, the Workers' Confederation of Mexico indicated in comments on the Government's report that a Seafarers' Welfare Committee had been established in which the General Secretary of the Order of Ships' Captains and Pilots participates in coordination with the maritime authority. ***The Committee requests the Government to send information on this Committee in its next report.***

Articles 6 and 7. Guarantees for the protection of parties. The Government refers to article 133 of the Constitution of the United Mexican States which confers on international treaties signed by the President of the Republic and approved by the Senate the rank of supreme law, and to section 194 of the Federal Labour Act under which seafarers' working conditions shall be set down in writing and issued in quadruplicate. Each party must obtain a copy of the working conditions, as must the port authority or the nearest Mexican consul and the labour inspection services of the place where the work contract was signed. The Workers' Confederation alleges, however, that workers, including seafarers, do not receive copies of their contracts and are required by placement agencies or employers to sign a blank document enabling their rights to be waived. ***The Committee therefore asks the Government to take all necessary steps to bring the legislation and practice into line with these provisions of the Convention and to provide information on the measures taken in its next report.***

Article 8. Placement of foreign seafarers. The Regulations on Workers' Placement Agencies, 2006, may be interpreted to cover foreign workers as well, including seafarers, since they bar such agencies from making any distinction between workers on grounds of ethnic origin, language or any other grounds the effect of which is to prevent or impair equality of opportunity. ***The Committee requests the Government to provide information on the placement of foreign seafarers in its next report.***

Article 10. Operation of placement and unemployment establishments for seafarers. In its report, the Government states that the lack of placement agencies for seafarers explains the fact that there are no statistics. Neither the National Employment Service nor any of its offices in the federal coastal entities, commercial ports, and tourist ports registered any placements of seafarers between July 2002 and June 2005. ***The Committee reminds the Government that communication of information, statistical or otherwise, concerning unemployment among seafarers and the work of seafarers' employment agencies is essential to an evaluation of how the Convention is being applied. It requests the Government to take the necessary measures to give effect to this Article and to inform the Committee of them in its next report.***

Part IV of the report form. Court decisions. The Government states that, between 1 January 2002 and 31 December 2004, there were 92,664 inspections in the country, and they were carried out in enterprises under federal jurisdiction. ***The Committee requests the Government to send in future information focusing specifically on the placement of seafarers and to indicate in its next report whether, as a result of inspections, complaints have been filed with the courts and whether the latter have given decisions involving questions of principle relating to the application of the Convention.***

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1934)

The Committee notes the information provided in the report. It draws the Government's attention to the following points.

Article 9, paragraph 1, of the Convention. Termination of the agreement. For over 30 years, the Committee has been requesting the Government to take steps to amend section 209(III) of the Federal Labour Act, under the terms of which it is unlawful to terminate the employment relationship when the vessel is in foreign waters. In contrast, the Convention provides that an agreement for an indefinite period may be terminated by either party in any port where the vessel loads or unloads, provided that the notice specified in the agreement shall have been given, which shall not be less than 24 hours.

In 2003, the Government referred to the provisions of *Article 9, paragraph 3*, of the Convention which, in its view, allowed it to maintain in force the provisions of section 209(III) of the Federal Labour Act. In 2005, the report did not contain any information on this subject. The Committee notes, however, that the Confederation of Mexican Workers (CTM) has submitted an initiative for the amendment of this section. ***The Committee therefore requests the Government to provide information in its next report on the action taken as a result of this initiative and requests it once again to take all the necessary measures to ensure that the agreement can be terminated at any time by either party provided that the notice specified shall have been given.***

Article 14, paragraph 1, and Article 5. Discharge of the seafarer. Under the terms of the Convention, every seafarer shall be given a document containing a record of his employment on board the vessel and also indicating that he has been discharged, whatever the reason for the termination or rescission of the agreement. As the Committee noted that the maritime book, issued in accordance with *Article 5* of the Convention, does not provide any space for such entries, it requested the Government in its previous comment to take the necessary measures to give effect to these provisions. As the report contains no information in this respect, ***the Committee once again requests the Government to take the necessary measures to ensure that the discharge of the seafarer is recorded in the maritime book and that no statement as to the quality of the seafarer's work or as to his wages may be contained in this document.***

Article 14, paragraph 2. Certificate as to the quality of the seafarer's work. Under the terms of the Convention, the seafarer has the right to obtain from the master a separate certificate as to the quality of his work or, failing that, indicating whether he has fully discharged his obligations under the agreement. Section 132(VIII) of the Federal Labour Act provides that employers are under the obligation to issue to workers who so request or who leave their employment, within three days, written testimony as to the work performed. ***The Committee requests the Government to indicate: (i) the specific information to be contained in this document; and (ii) whether this section is applicable to seafarers.***

Article 15. Application of the Convention. The CTM indicates in its comments that, although there are legal texts respecting labour inspection, no inspections are carried out on the application of the provisions of the Convention due to the lack of resources available to the inspection services.

The trade union organization also indicates that there is no periodic inspection of vessels. It adds that, at the present time, only two inspectors of the International Transport Workers' Federation (ITF) take responsibility at the national level for foreign vessels flying flags of convenience and for receiving complaints from seafarers. Unfortunately, these inspectors do not benefit from any support from the authorities in their work. The Government indicates that, in order to reply to these observations, it needs to obtain more information from the CTM. ***The Committee requests the Government to provide further information on this matter in its next report.***

[The Government is asked to report in detail in 2007.]

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (ratification: 1974)

The Committee notes the information provided by the Government in its report. It draws the Government's attention to the following points.

Article 2, paragraph 3, of the Convention. Statistics. In its previous comments, the Committee requested the Government to indicate clearly the department on board ship (for instance, deck, engine, catering) and the area (for instance, at sea or in port) where accidents occurred. Such indications are particularly important where an investigation has to be undertaken by the competent authority, in accordance with *paragraph 4* of this Article, with a view to establishing the causes and circumstances of occupational accidents resulting in loss of life or serious personal injury.

The Government reiterates the information that it provided previously, namely that Mexican Official Standard NOM-021-STP-1993, which is generally binding by all those in charge of workplaces, does not apply exclusively to work on ships. It cannot therefore establish the obligation to indicate the department of the ship on which an accident occurs. Furthermore, it reaffirms that a joint reading of points 20 and 27 of form CM-2A “occupational accident report” and section 3.3.1, Chapter XVI, of the above Mexican Official Standard means that the department of the ship in which the accident occurred can be inferred. ***The Committee once again requests the Government to envisage the possibility of adopting a provision which requires that statistics concerning accidents on board ship should determine clearly the department of the ship (for instance, deck, engine, or catering) and the area (for instance, at sea or in port) where the accident occurred so as to give full effect to the provisions of the Convention.***

Article 4, paragraphs 2 and 3(d). Provisions for the prevention of accidents. In 1991, the Government indicated that the Crew Safety Manual was being reviewed with a view to the inclusion of provisions on the prevention of accidents specifically applicable to the work of seafarers and special safety measures on and below deck. Since then, the Committee has requested the Government to keep it informed of any developments in the situation and to provide a copy of this document once it had been revised. The Government has still not provided any indication on this matter in its last report.

The Confederation of Mexican Workers (CTM) indicates that, to its knowledge, the port authorities have not adopted measures for the prevention of accidents on board vessels. ***The Committee requests the Government to indicate whether the Crew Safety Manual has been modified and to provide a copy of this document with its next report. If not, it requests the Government to take all the necessary measures to ensure that provisions concerning the prevention of occupational accidents applicable to the work of seafarers and special safety measures on and below deck are laid down in the near future.***

Article 8. Programmes for the prevention of accidents. The CTM observes in its comments that, contrary to the provisions of the Convention, there is no national programme for the prevention of accidents on board vessels involving the establishment of joint committees specifically entrusted with the prevention of maritime accidents. ***The Committee requests the Government to provide further information on the existence of programmes for the prevention of accidents.***

Part V of the report form. Application in practice. In its previous comments, the Committee requested the Government to provide general information on the application of the Convention in practice. The Government includes with its report a table on the workers affiliated to the Mexican Social Security Institute (IMSS). ***The Committee requests the Government to provide general information in its next report on the manner in which the Convention is applied, including extracts from the reports of the inspection services, information on the number of workers covered by the legislation, the number and nature of the registered accidents, as well as on any contraventions reported and the action taken as a result.***

Repatriation of Seafarers Convention (Revised), 1987 (No. 166) (ratification: 1990)

The Committee notes the information provided by the Government. It draws its attention to the following points.

Article 2, paragraph 2, of the Convention. Maximum duration of service periods on board. In its previous comments, the Committee requested the Government to provide additional information on the application of this Article. The Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN) indicated in 2002 that the national legislation did not contain a provision relating to the maximum duration of service periods on board giving entitlement to repatriation. ***As the report does not contain any information on this point, the Committee requests the Government once again to indicate the maximum duration of service periods on board following which a seafarer is entitled to repatriation and it recalls in this regard that, under the terms of the Convention, such periods shall be less than 12 months.***

Article 3, paragraph 2. Destinations of repatriation. As the Committee indicated previously to the Government that the national legislation did not give full effect to the provisions of this Article of the Convention, it requested it to take the necessary measures to remedy this situation. Section 196 of the Federal Labour Act provides that, in the absence of a clause respecting the destination of repatriation in the articles of agreement, the seafarer shall be repatriated to the place where he agreed to enter into the engagement. In contrast, under the terms of the Convention, the seafarer shall have the right to choose from among several destinations, namely the place at which he agreed to enter into the engagement, the place stipulated by collective agreement, his country of residence or such other place as may be mutually agreed at the time of engagement. The Committee notes with regret that the Government’s report does not contain any indication relating to the application of this Article. ***It therefore once again requests the Government to take all necessary measures to bring national law and practice into conformity with these provisions.***

Article 4, paragraph 1, and Article 5. Responsibility of the shipowner to arrange for repatriation. In its previous comment, the Committee drew the Government's attention to the fact that, contrary to the provisions of the Convention, the national legislation limits the duty of the shipowner to arrange for repatriation (*Article 4, paragraph 1, of the Convention*). It also requested the Government to indicate the specific provisions of the national legislation requiring the competent authority to meet the cost of repatriation of the seafarer if the shipowner fails to discharge his responsibilities (*Article 5 of the Convention*). The Government refers once again to section 28(III) and section 204(IX) of the Federal Labour Act, and to article 123(XXVI) of the Political Constitution of the United States of Mexico and indicates that specific measures are not envisaged in relation to the application of *Article 5 of the Convention*, as the shipowner is held responsible by the national legislation for repatriating the seafarer.

Although the provisions contained in section 28(III) of the Federal Labour Act and article 123(XXVI) of the Political Constitution of the United States of Mexico establish certain guarantees with regard to the repatriation of Mexican seafarers engaged on foreign vessels, they do not however give full effect to the provisions of the Convention, particularly since, under the terms of section 204(IX) of the Federal Labour Act, the obligation of the shipowner to repatriate the seafarer is limited to cases in which the cessation of the employment relationship can be attributed to the shipowner. ***The Committee therefore once again requests the Government to take all the necessary measures to bring national law and practice into conformity with Article 4, paragraph 1, and Article 5 of the Convention.***

Article 7. Paid leave. In accordance with this Article, time spent awaiting repatriation and repatriation travel time shall not be deducted from paid leave accrued to the seafarer. The Government indicates that the fact that the expenses of repatriation have to be covered by the shipowner affords sufficient guarantees to the seafarer. Nevertheless, under the terms of section 79 of the Federal Labour Act, days of holiday accrued to the worker, which have not been used, do not, in principle, have to be paid.

The Committee recalls that this Article of the Convention addresses leave periods, and not the financial aspects of leave. As the national legislation does not contain any guarantee that time spent awaiting repatriation and repatriation travel time shall not be deducted from paid leave accrued to the seafarer, ***it accordingly requests the Government to take the necessary measures to give full effect to this Article.***

Morocco

Recruitment and Placement of Seafarers Convention, 1996 (No. 179) (ratification: 2000)

The Committee notes the Government's report and the information that the draft Maritime Commercial Code, which is to contain provisions on the recruitment and placement of seafarers, has not yet been adopted. It notes with regret that the report contains no detailed information on the effect given to the Convention by the legislation in force. ***The Committee therefore once again asks the Government to provide, as required by the report form, detailed information on the provisions of the national legislation that give effect to the Convention pending the adoption of the new Code.***

[The Government is asked to report in detail in 2007.]

New Zealand

Placing of Seamen Convention, 1920 (No. 9) (ratification: 1938)

The Committee notes the Government's report for the period ending 1 May 2005, which includes observations made by the New Zealand Council of Trade Unions (NZCTU) as well as the Government's response to these observations.

Article 4, paragraph 1, of the Convention. Organization and maintenance of efficient and adequate systems of public employment offices. With reference to earlier NZCTU observations that the relevant maritime union has not been made aware of the office space available to seafarers through the competent authority, the Committee notes the Government's statement that it will ensure that information on services provided for the placement of seafarers is communicated to workers' organizations. The Government further indicates that the district office staff of Maritime New Zealand (as the Maritime Safety Authority has been renamed) undertakes to record the names of all persons seeking employment and pass them on to prospective employers. In this respect, the NZCTU states that, in practice, the maritime unions are not aware of the possibility of seamen using such a service nor MSA office space, as the information has not been communicated to their national offices. The NZCTU feels that the availability of such a service would be of great assistance to seafarers, if it could be electronically accessed at different ports and employers were made aware of it.

The NZCTU further maintains that the government policy does not encourage continuity of employment for seafarers as required under Convention No. 145, since the Government no longer maintains a register of seafarers available for work. This has led to a situation where some employers approach the union for crew, but others employ directly and go straight to Maritime New Zealand for validation of qualifications, thus bypassing unemployed qualified seafarers who live across the country. The NZCTU considers it important that a register of available seafarers with all statistical information concerning unemployment of seafarers be established. It holds that this is a government responsibility but that it would be willing to support government work with such a register.

The NZCTU therefore believes that the use of office space for seafarers and assistance from the district office staff of Maritime New Zealand to maintain a register would be very helpful, and recommends that the Government take responsibility for re-establishing the register of seafarers available for employment to implement Conventions Nos. 9 and 145, and facilitating further communication between the competent authority and the maritime unions to this end. The Government claims that the establishment and maintenance of a seafarer register database would go beyond the scope of existing functions and resourcing, and it is not clear that there is a specific need for such measures.

The Committee recalls the provisions of *Article 4, paragraph 1*, according to which each Member which ratifies the Convention agrees that there shall be organized and maintained an efficient and adequate system of public employment offices for finding employment for seafarers without charge. Such system may be organised and maintained, either by representative associations of shipowners and seamen jointly under the control of a central authority, or, in the absence of such joint action, by the State itself. The Committee notes that there are no seafarer recruitment and placement agencies in New Zealand. In practice, maritime unions are not aware of the services provided by the competent authority for the placement of seafarers (e.g. use of Maritime New Zealand's office space, recording the names of persons seeking employment and passing them on to prospective employers). ***The Committee trusts that appropriate measures will be taken by the Government to ensure the placement of seafarers in accordance with the requirements of the Convention. The Government may wish to consider implementing the Convention by arranging for the organization and maintenance of seafarers' employment offices by representative associations of shipowners and seafarers jointly under the control of a central authority, in accordance with paragraph 1(a) of this Article. In particular, the Committee requests the Government to take all necessary measures, in the near future, to ensure that detailed information on the facilities and services offered by the competent authority for the placement of seafarers is communicated to all parties concerned, i.e. associations of shipowners and seafarers, as well as generally publicized among seafarers and employers. Please also indicate the measures taken to ensure coordination at national level (Article 4, paragraph 3).***

Article 10, paragraph 1. Information concerning unemployment among seamen and concerning the work of seamen's employment agencies. The Government has supplied a summary table of the number of individuals (44) on the national unemployment register seeking work in seafarer-related occupations as at 31 March 2005, in response to the Committee's comment under *Article 10, paragraph 1*. The Government claims that it has a limited ability to report valid statistical data on unemployment amongst seafarers, as there are no special and exclusive statistics for the category of seafarers, and the national standard classification of occupation does not contain a specific code for seafarers. While the establishment of a register of seafarers available for employment is not explicitly required under the Convention, the Committee is bound to emphasize that specific data on the placement and unemployment of seafarers contribute to ensuring that full effect be given to the provisions of the Convention. ***The Committee trusts that the Government will endeavour to supply the statistics, or other information, required under this Article of the Convention.***

Furthermore, as regards the Governing Body's invitation of States that have ratified Convention No. 9 to consider the possibility of ratifying the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), the Government indicates that it is the practice to allow the tripartite partners to put forward suggestions for possible ratifications that are then prioritized based on consultations and available resources. To date, Convention No. 179 has not been suggested and would have low priority in light of the new Maritime Labour Convention, 2006. ***The Committee would appreciate being kept informed on any new developments in this respect.***

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1938)

The Committee takes note of the observations made by the New Zealand Council of Trade Unions (NZCTU) and Business New Zealand concerning the Government's report on the application of the Convention, as well as of the Government's reply.

As a general comment, the Government states that the Convention is applied primarily through maritime legislation concerning the contents of articles of agreement and the requirement for the employer to forward to the competent authority a notice on the opening of an article of agreement and the text of the agreement following termination. Section 22 of the Maritime Transport Act (MTA) setting out the contents of articles of agreement, however, applies exclusively to New Zealand ships on overseas voyages; the term "overseas voyage" being defined as a voyage to a port outside New Zealand. Given that this Convention also applies to vessels engaged in domestic voyages, and that the Government itself indicates that New Zealand does not have a foreign-going shipping fleet, the Committee holds that section 22 of the MTA does not suffice to give effect to the relevant provisions of the Convention. As regards the Government's reference to the Employment Relations Act (ERA), the Committee recalls that the subject matter of this Convention – seafarers' articles of agreement – requires legislation adapted to the specificity and complexity of maritime employment, rather than labour law texts of general application concerning employment conditions and contracts, such as the ERA. ***Considering that, for the purposes of both legal security and clear guidance to parties often required to take decisions on short notice, compliance can only be ensured by texts adapted to these special and often unique conditions, the Committee again requests the Government to make every effort to bring national legislation into conformity with the requirements of the Convention.***

Articles 11 and 12 of the Convention. Circumstances in which the seafarer may be discharged or may demand discharge. With particular regard to the Committee's previous comments, the report indicates that dismissal is regulated by the ERA, which applies to all employment agreements, in accordance with the Government's policy to maintain consistent treatment across all sectors. While the ERA does not specify the grounds for dismissal, seafarers are protected through the personal grievance procedure and the remedies for unjustified dismissal provided therein. The question of justifiability is determined on an objective case-by-case basis considering whether a fair and reasonable employer would have done the same under the circumstances. The Government thus considers that it would not be appropriate to further specify the circumstances in which dismissal is justified, given in particular the already existing specifications in practice through case law. The Government further believes that, in practice, this matter is irrelevant, as New Zealand has no foreign-going shipping fleet and seafarers working in home trade are protected by general employment laws in that they are permanent employees rather than signed on articles. Finally, the report also indicates that national legislation does not specify the circumstances in which seafarers may demand their immediate discharge, but seafarers' employment agreements may include such matters as enforcement rights.

The Committee reiterates that, due to the specificity of maritime employment, *Articles 11 and 12* of the Convention place a positive and unequivocal obligation on the State to precisely establish the circumstances in which a seafarer can be immediately discharged or may demand discharge. The requirement is that national law shall make this determination beforehand and in an abstract manner, rather than a court determining subsequently and at the seafarer's request whether the concrete circumstances of a case justify dismissal or the demand of discharge. ***Considering that the articulation in national law of the circumstances under which the seafarer may be dismissed or may demand discharge is the only means of fulfilling the obligations arising under Articles 11 and 12 of the Convention, the Committee again requests the Government to take the necessary steps to bring its law and practice into conformity with these provisions of the Convention.***

Furthermore, the Committee is raising a number of general points put forth by the NZCTU, in a request addressed directly to the Government.

Continuity of Employment (Seafarers) Convention, 1976 (No. 145) (ratification: 1980)

The Committee notes the Government's latest report, as well as the observations made by the New Zealand Council of Trade Unions (NZCTU) and the Government's response to these observations.

Article 2, in conjunction with Article 3, paragraph (a), of the Convention. Contracts or agreements providing for continuous or regular employment with a shipping undertaking or shipowners' association. With respect to the Committee's previous request for information on provisions in collective agreements concerning continuous or regular employment for seafarers, the Government indicates that there are currently no collective agreements classified in the database under the codes relating to Convention No. 145.

The Committee notes with interest that the new Part 6A of the Employment Protection Act (ERA), as amended in 2004, aims at providing protection for employees in case of "restructuring", i.e. when their work is contracted out, or when the business is sold or transferred. Seafarers are covered by sections 69K to 69O of Subpart 2, according to which "employment protection provisions" shall be included in every newly concluded collective agreement and individual employment agreement, as well as in every existing collective agreement and individual employment agreement within a given time. "Employment protection provisions" shall contain: (i) a negotiation process about the restructuring to be followed by the employer with the new employer to the extent that it relates to affected employees; (ii) the relevant matters to be negotiated, including whether the affected employees will transfer to the new employer on the same terms and conditions of employment; and (iii) the procedure to determine the entitlements, if any, of employees who do not transfer to the new employer.

Please supply samples of individual employment agreements, or collective agreements (if any), incorporating such employment protection provisions.

Furthermore, the Committee asks the Government to indicate by what means it is ensured that periods of employment are sufficient to enable a seafarer to qualify for unemployment benefit or assistance during periods of unemployment.

Article 2, in conjunction with Article 3, paragraph (b). Arrangements for the regularization of employment through registers of qualified seafarers. The NZCTU claims that the Government policy does not encourage continuity of employment for seafarers as required under this Convention, since the Government no longer maintains a register of seamen available for work. This has led to a situation where some employers approach the union for crew, but others employ directly and go straight to Maritime New Zealand for validation of qualifications, thus bypassing unemployed qualified seafarers who live across the country. According to the NZCTU, it is important that a register of available seafarers with all statistical information concerning unemployment of seafarers be established. The NZCTU therefore recommends that the Government take responsibility for re-establishing the register of seafarers available for employment to implement this Convention.

The Government claims that the establishment and maintenance of a seafarer register database would go beyond the scope of existing functions and resourcing of Maritime New Zealand, and that it is not clear that there is a specific need for such measures, or that they could achieve more than might be gained through the assistance made available by Maritime New Zealand to seafarers seeking employment (e.g. use of Maritime New Zealand's office space; service of recording the names of persons seeking employment and passing them on to prospective employers). The NZCTU states that, in practice, the maritime unions are not aware of the possibility of seamen using such a service, as the information has not been communicated to their national offices. It feels that the availability of this service would be of great assistance to seafarers, if it could be electronically accessed at different ports and employers were made aware of it.

The Committee refers to *Article 3, paragraph (b)*, which recommends arrangements for the regularization of employment by means of establishing and maintaining registers or lists, by categories, of qualified seafarers. There is no register of seafarers available for work in New Zealand. While the establishment of a register of seafarers is not explicitly required under the Convention, it is identified as one of the possible means to achieve a national policy encouraging continuous or regular employment for qualified seafarers. Measures other than those explicitly mentioned in *Article 3* are acceptable as long as they are conducive to the attainment of the overall goal set out in *Article 2*. The Government believes that the use of Maritime New Zealand office space, and the service of recording the names of persons seeking employment and passing them on to prospective employers, represent means as efficient in terms of assisting seafarers to find employment as would be the establishment and maintenance of a register.

The Committee requests the Government to indicate whether: (i) recorded seafarers have priority of engagement for seafaring (Article 4, paragraph 2); (ii) all occupational categories of qualified seafarers are included (Article 4, paragraph 1); and (iii) the list of recorded names is periodically reviewed (Article 5, paragraph 1). In particular, the Committee asks the Government to take all necessary measures, in the near future, to ensure that detailed information on the facilities and services offered by Maritime New Zealand is communicated to all parties concerned, i.e. associations of shipowners and seafarers, as well as generally publicized among seafarers and employers.

Panama

Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (ratification: 1971)

The Committee notes resolution No. 022-2003 of 14 August 2003 of the Maritime Authority of Panama (AMP) approving the regulations on maritime labour inspection and other provisions relating to working conditions, accommodation certificates, qualifications and manning on board vessels in the Panamanian merchant navy and resolution No. 011-2005 of the AMP of 26 June 2005 respecting accommodation certificates for crew members (CICA). It draws the Government's attention to the following points.

Articles 2(a) and 5, paragraph 2(b), of the Convention. Legislation. The Convention provides that, in the absence of collective agreements, the competent authority shall be responsible for the framing of regulations concerning food and water supplies, catering and the construction, location, ventilation, heating, lighting, water system and equipment of galleys and other catering department spaces on board ship, including storerooms and refrigerated chambers (*Article 2(a)*). The competent authority is also under the obligation to maintain in force laws or regulations concerning food supply and catering arrangements designed to secure the health and well-being of crews. These laws or regulations shall, among other matters, require the arrangement and equipment of the catering department in every vessel in such a manner as to permit the service of proper meals to the members of the crew (*Article 5, paragraph 2(b)*).

For many years, the Government has been indicating to the Committee that the adoption of the regulations on inspection which were under preparation would give effect to these Articles of the Convention. The resolution of the Maritime Authority of Panama No. 022-2003, however, only provides that every vessel shall have on board food and drinking water in sufficient quantities based on the number of crew members, and the duration and nature of the voyage, and that the maritime labour inspector is responsible for carrying out a visual inspection of the state of such food supplies, drinking water and the spaces and equipment used for storing, handling and preparing food. It thus only contains general provisions and does not correspond to the requirements set out in the Convention. ***The Committee once again requests the Government to indicate the laws or regulations adopted to give effect to these provisions of the Convention and to provide copies.***

Article 10. Annual report of the competent authority. In response to the 2004 general observation by the Committee requesting the provision of the annual report of the competent authority, the Government indicates that this report is currently being established and that a copy will be forwarded to the International Labour Office as rapidly as possible. ***As no copy of the report has yet been received, the Committee requests the Government to provide one as soon as possible.***

The Committee is also raising certain matters of a technical nature in a request addressed directly to the Government.

Peru

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55) (ratification: 1962)

In previous comments, the Committee noted certain problems in application of national legislation regarding sickness and accident insurance in the maritime fishing sector and requested the Government to supply information on the measures taken to strengthen the capacity of the inspectorate to supervise application of the national legislation in practice. It also requested the Government to supply statistical information on the number of enterprises in the maritime fishing sector which have taken out the supplementary insurance for high-risk activities (SCTR) instituted by section 19 of the Social Security Modernization Act No. 26790 in regard to health, 1997. In fact, under Supreme Decree No. 009-97-SA issuing regulations under the Act, fishing is considered as a high-risk activity and therefore subject to compulsory SCTR insurance. Under this insurance, workers enjoy a specific system in regard to medical treatment, while cash benefits in the event of incapacity for work are financed by the health insurance scheme.

In this regard, in the further communications received between October 2004 and January 2005, the Trade Union of Fishing Boat Owner–Masters of Puerto Supe and Associates once again drew attention to serious and persistent failure to apply in practice the national legislation and regulations, as well as the lack of will by the Government to confront the existing problems. According to the trade union, shipowners persistently fail to comply with their obligation to affiliate their workers to the supplementary insurance for high-risk occupations which results in depriving them of any protection in the event of illness or accident. The trade union therefore urges the Government to convene a round table at national level in order to find a solution to the problems of social security, health and industrial injury for workers in the industrial maritime fishing sector.

In its latest report received by the Office in October 2005, the Government gives no reply to these concerns or to the requests expressed by the trade union. It provides a list of activities already undertaken or planned by the labour inspection services in various regions of the country in order to supervise the manner in which the obligation to affiliate to the SCTR is complied with in practice by fishing enterprises. Furthermore, it provides the statistical information requested earlier regarding the number of enterprises in the maritime fishing sector affiliated to the SCTR special scheme.

The Committee takes due note of this information and hopes that in its next report the Government will provide its observations regarding the concerns expressed by the above trade union. In regard to medical benefits, first, the Committee notes that on the basis of the statistics supplied by the Government, despite the inspection campaign mentioned in the report, only a small number of enterprises in this sector are actually affiliated to the supplementary insurance for high-risk occupations. Indeed, while there are some 2,541 fishing enterprises in the country, at 22 July 2005 only 168 of them had subscribed to high-risk occupation insurance. ***The Committee would be grateful if the Government would supply in its next report explanations on this matter, particularly the reasons why workers of certain enterprises are still deprived of this legal protection whereas section 82 of Supreme Decree No. 009-97-SA issuing regulations under Act No. 26790 provides that all workers performing high-risk activities must be affiliated to the SCTR supplementary insurance. The Committee recalls that it is primarily the duty of the Government to ensure that the protection provided by the Convention is effectively applied and to see that it is fully observed in practice. On this score, the Committee requests the Government to indicate how effect is given in practice to section 88 of Regulation No. 009-97-SA which provides that the insurance institutions must cover sick or injured persons despite failure by employers to make social security payments and may subsequently claim the amounts involved from the employers. Please also provide information on the sanctions imposed on employers who do not comply with their obligations under the SCTR supplementary insurance and on the measures envisaged to oblige all maritime fishing companies to comply with their legal obligations.***

With regard to cash benefits due in the event of seafarers' illness or accident, the Committee would be grateful if the Government would indicate how the Convention is given effect where shipowners fail to contribute to insurance schemes. The Committee recalls that, under Article 4, paragraph 3, and Article 5, paragraph 3, of the Convention, the shipowner ceases to be liable for medical assistance or payment of the whole or part of the salary in the event of illness or accident causing temporary incapacity only from the time at which the person concerned becomes entitled to medical benefits under a compulsory insurance scheme.

Furthermore, the Committee notes the Government's statement that it will shortly provide information on the legal procedures initiated against the Atlántida company for non-payment of social insurance contributions providing cover against invalidity and death. The Committee notes that the new communications from the Trade Union of Fishing Boat Owner–Masters of Puerto Supe and Associates show persistent failure by this company to comply with the law. Bearing in mind the extreme vulnerability of persons in the event of illness or accident, the Committee trusts that the Government, in its next report, will be in a position to indicate the manner in which these cases have been resolved and will communicate all the legal decisions handed down on the question as well as, if applicable, the sanctions imposed on the above enterprise. Please supply information on any benefits received by workers in this enterprise from the insurance institutions and on the action taken by these institutions in their right of recourse against the Atlántida company.

[The Government is asked to reply in detail to the present comments in 2008.]

Sickness Insurance (Sea) Convention, 1936 (No. 56) (ratification: 1962)

The Committee notes the information supplied by the Government in its report and the communications transmitted by the trade union of fishing boat owner–masters of Puerto Supe and Associates regarding the application of the Convention. The Committee notes that the Government gives no reply on the concerns expressed by the aforementioned trade union concerning, inter alia, problems concerning fishers' sickness insurance, which, according to the trade union, leads to enormous difficulties of application in practice. The Government does not indicate whether it intends to reply favourably to the proposal made by the trade union to convene a round table to discuss social security problems in the industrial fishery industry. The Committee therefore trusts that the Government will reply as soon as possible to the aforementioned communication and also wishes to draw its attention to the following matter.

Article 4(1) of the Convention. Payment to the seafarer's family of the whole or part of the cash benefit to which he or she would have been entitled had he or she not been abroad. In its previous comments, the Committee noted the information supplied by the Government regarding the possibility for a person who is abroad to be represented in order to authorize a third person to act on his or her behalf in Peru, in particular with the social security institutions. The Committee nevertheless considered that this procedure was not of a nature to give full effect to *Article 4* of the Convention in that the Article requires the payment, as of right, that is, unconditionally, to the insured person's family of the whole or part of the sickness benefit when the insured person is abroad and has lost the right to wages. In its latest report, the Government refers once again to the procedure for representation set out in the Civil Code without indicating whether measures have been taken or are envisaged to give effect to this provision of the Convention. ***The Committee therefore reiterates its request to the Government to re-examine the question and hopes that it will be in a position to inform the Committee in its next report of measures taken in this respect. Please also provide the information requested previously in regard to the benefits paid in practice to the families of insured persons who are abroad and have lost their right to wages.***

The Committee is also raising certain other matters in a request directly to the Government.

[The Government is asked to reply in detail to the present comments in 2008.]

Seafarers' Pensions Convention, 1946 (No. 71) (ratification: 1962)

The Committee notes the information supplied by the Government in its report. It notes, in particular, with interest the report by the Insurance Standardization Office (ONP) on progress made regarding the action brought by the Association of Former Employees and Retirees of the National Ports Enterprise (ACJENAPU). Further to its previous comments, the Committee would like to draw the Government's attention to the following points.

1. *Effect of the new pension scheme on the application of the Convention.* In its previous comments, the Committee requested the Government to provide information on the impact of the new pension scheme on the application of the Convention, including the information specified in the report form on this Convention, for each Article of the Convention.

In its report, the Government indicates that the private pension system (SPP) is an individual capital accumulation scheme in which the amount of pensions depend directly on the workers' contributions, the earnings of the pension funds' investments and vouchers (*Bono de Reconocimiento*), where applicable. The SPP is self-financing, in other words the worker's future pension depends on his or her own contributions. The rate of compulsory contributions to the pension fund is worked out on the basis of technical criteria to achieve an adequate replacement rate. The pensions provided by the SPP are accordingly not determined in advance. ***The Committee takes note of this information. In view of the fact that under the private pension system it is not possible to determine the amount of benefits in advance, the Committee requests the Government to indicate how it ensures the application of Article 3(1)(a)(ii) of the Convention (minimum amount of pensions).***

On the subject of collective financing of benefits, the Government indicates that the SPP has a minimum pension which allows state subsidization for members of the scheme who meet the age and contribution requirements laid down in Act No. 27617 and who have not accumulated enough resources to finance a pension themselves. The minimum pension is financed directly by the Treasury. The Committee notes this information. ***It observes that, contrary to Article 3, paragraph 2, of the Convention, under the private pensions system both the cost of the pension and administrative costs are borne solely by the insured persons. In the Committee's view, the minimum pension which the State pays and which applies only to certain cases cannot be regarded as a contribution within the meaning of Article 3, paragraph 1(b) and paragraph 2, of the Convention. Peru's private pension system is, on the contrary, an independent scheme in which the resources for payment of the benefits are obtained by means of contributions from the insured members. The Committee again reminds the Government that according to Article 3, paragraph 2, of the Convention, seafarers collectively shall not contribute more than half the cost of the pensions payable under the scheme. The Committee trusts that in its next report the Government will supply the statistics required by the report form under this Article of the Convention.***

2. *Payment of pensions to retired persons and former employees of the Peruvian Steam Ship Company (CPV).* In its previous comments, the Committee asked the Government to supply information on developments in the situation regarding the payment of pensions to retirees and former employees of the CPV. It also requested the Government to provide information on the situation (vis-à-vis the Convention) reported by the Association of Crew Members for the

protection of CPV workers, of former pensioners of this enterprise who have been excluded from the Pension Fund and have been unable to obtain reinstatement through a court ruling.

With regard to the first point, the Committee notes Report No. 136-2005-GL.PJ-21/ONP on the situation of the former workers of the CPV who took legal action to have their pensions adjusted. It also notes that the ONP will continue to have the same responsibilities in the event of the original entity being privatized, liquidated, disposed of and/or dissolved, as it had in December 2004, including that of representing the State in procedures before the courts and the Constitutional Tribunal. ***The Committee takes note of this information.***

With regard to the legal action brought by the former pensioners of the CPV, the Government states that a decision was adopted on 3 November 2004 in which the court requires the ONP to “establish equivalent public positions in each case for the purpose of paying pensions to workers who, in accordance with the exception expressly established in the law, may receive a pension under Legislative Decree No. 20530 and who did not have the status of public servant at the time of separation. The equivalent positions shall be established in accordance with this decision.” ***The Committee takes note of this information with interest.*** It also notes that the ONP has filed an appeal against this decision, which has been admitted “without suspensive effect” but that appropriate measures have been taken to execute the abovementioned decision in accordance with the rules in force pending a ruling by the higher court on the abovementioned appeal. ***The Committee asks the Government to inform it of the outcome of the appeal and to provide any court decision pertaining to it.***

3. *Complaint by retirees of the National Ports Enterprise (ENAPU) seeking adjustment of their pensions.* In its previous comments, the Committee noted once again that the ONP had still not established internal procedures to implement the court decision in favour of the ACJENAPU, and expressed the hope that the Government would take the necessary measures in this regard. The Committee asked for information on any further developments in this case and in particular: (i) whether the adjusted pensions are actually being paid to the retirees concerned; and (ii) whether the three persons whose pensions have not been adjusted by the ONP have had their pensions adjusted by the Ministry of Economic and Financial Affairs.

The Government indicates in this connection that the complaint brought by the ACJENAPU is now at the stage of the execution of ruling, the ONP having accepted the court’s decision regarding the adjustment for the workers of ENAPU MATARANI, except in one case, in which the administrative file was still under the competence of the original entity. ***The Committee notes this information. It requests the Government to report on the follow-up to this last case.***

4. *Communication from the Federation of Workers of Peru (FETRAPEP).* The Committee notes a communication of October 2006 from FETRAPEP, referring to several issues relating to the application of the Convention. ***It will then examine the above communication together with the Government’s reply which it may wish to supply.***

[The Government is asked to reply in detail to the present comments in 2007.]

Saint Vincent and the Grenadines

Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16) ***(ratification: 1998)***

The Committee notes the Government’s report.

The Committee had previously taken note of the Shipping Act, 2004, sent by the Government. It had noted that section 105 of the Shipping Act addresses in a very limited way the issue of medical treatment on board ship. It had also noted the Government’s indication that there is still no appropriate legislation to give effect to the provisions of the Convention.

The Committee notes the Government’s information that the Office of Maritime Administration, which was recently set up, is the agency of authority that is entrusted with the application of the appropriate legislation or administrative regulations. The Government adds that at present there are only two officers assigned to the agency: the Director of Maritime Administration and an Administrative Clerk. The agency is currently building its organizational structure and is therefore unable to provide the necessary information required in order to prepare a full report. ***Referring to its previous observation in 2005, the Committee requests the Government to provide information on the following points.***

Part V of the report form. The Committee once again asks the Government to: (i) provide full information concerning the number of young persons employed on vessels registered in Saint Vincent and the Grenadines; and (ii) provide full particulars concerning the pre-employment and periodic medical examinations they are given.

The Committee renews its request for the Government to enact legislation to give effect to the provisions of the Convention and to provide information in this regard in its next report.

Seychelles

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8) (ratification: 1978)

With reference to its previous comments, the Committee notes the information supplied by the Government in its report. According to this information, the proposals to amend the Merchant Shipping Act and its enabling regulations are shortly to be submitted to the National Assembly for adoption. The Government adds that it will send a copy of these texts as soon as they have been adopted. *The Committee consequently refers the Government to its observation and direct request of 2005 in which it pointed out where the national laws and regulations needed amending to bring them fully into conformity with the Convention. The Committee hopes that the texts adopted will enable all matters pending to be resolved.*

[The Government is asked to reply in detail to the present comments in 2008.]

Spain

Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (ratification: 1971)

Article 10 of the Convention. The Committee notes that the Government was not in a position to obtain the annual report of the competent authority, as required by this provision of the Convention. *The Committee again requests the Government to transmit to the International Labour Office the annual report of the competent authority.*

In addition, the Committee is raising certain technical matters in a request directly addressed to the Government.

[The Government is asked to reply in detail to the present comments in 2007.]

Accommodation of Crews Convention (Revised), 1949 (No. 92) (ratification: 1971)

For several years, the Committee has been asking the Government to provide the texts of national laws and any collective agreements that give effect to the provisions of this Convention. In 1995, while initially indicating that there was no specific legislation on the accommodation of crews and then that the Convention applied directly under the Spanish legal system, the Government stated that new legislation was being drafted. The Committee observes, however, that the legislation sent since then still contains no provisions giving specifications regarding the construction of the actual crew accommodation, and that for the most part it applies either to fishing vessels or foreign vessels.

The Committee reminds the Government that according to *Article 3, paragraph 1, of the Convention*, 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. *It requests the Government to send a full and detailed report on the application of the Convention in accordance with the report form on the Accommodation of Crews Convention (Revised), 1949 (No. 92), approved by the Governing Body of the International Labour Office, indicating for each provision of the Convention the corresponding provision in the national legislation in force. It also asks the Government to send copies of the relevant provisions of laws, regulations and collective agreements that have been adopted to give full effect to the Convention.*

Sri Lanka

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1995)

The Committee notes that the continuous discharge certificate issued to seafarers by Sri Lankan authorities fails to give effect to substantial provisions of the Convention, and raises these matters once again in a request directly addressed to the Government. The Committee recalls that all obligations concerning identity documents pursuant to the Convention are applicable, irrespective of the denomination of the document or its other uses. It notes that, 11 years after ratification, the Government has not yet taken the required steps to ensure compliance with this instrument. *The Committee therefore requests the Government to make the necessary efforts to bring national law and practice governing seafarers' identity documents into conformity with the requirements of the Convention.*

Sweden

Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180) (ratification: 2000)

The Committee notes the observations made by the Swedish Ship Officers' Association, the Merchant Marine Officers' Association and the Union for Service and Communication (SEKO) – Seafarers' Branch.

Unions' observations

The unions observe that, until 1998, Swedish legislation regulated working time at sea as follows: ordinary work of eight hours per day and 56 hours per week, with the possibility of an additional 13 hours overtime per week, plus three extra overtime hours per week by mutual agreement, i.e. an absolute maximum of 72 working hours a week. Exemptions could be made by collective bargaining agreement between shipowners' and seafarers' organizations, where the maximum working hours could be up to 16 hours in any 24-hour period. According to the unions' observations, such agreements took into consideration factors that could be relevant to compensate for longer working hours under relatively short periods, such as length of time on board, relief systems, type of ships, workload, total manning, trade, etc.

In June 1998, Sweden adopted Act 958/1998 concerning rest periods for seafarers, which fixes the minimum hours of rest in accordance with the Convention. The Convention was ratified on 15 December 2000. In 2003, an additional section was inserted into the Act, regulating the maximum yearly working hours to 52 x 48 hours = 2,496 hours per annum, which, according to the seafarers' organizations, is impossible to control. Moreover, the unions deplore that no reduction is made for annual leave (the Act suggests that it could be given after the fulfilment of the stipulated maximum yearly working hours) or public holidays, and there is no reference to the basic eight working hours a day mentioned in the Convention. Section 7 of Act 958/1998 stipulates that working hours above 40 hours a week should be paid in accordance with a collective agreement, or should be compensated by spare time in port, but it is not specified when this compensation should be given.

The seafarers' organizations believe that the Government has not lived up to the requirements and the intention of the Convention to protect the seafarers and their health. The way the Convention has been implemented in Swedish legislation means that a seafarer can work 13–14 hours a day for almost six-and-a-half months without relief. Exemptions from the normal working hours of eight hours are no longer negotiated by collective bargaining; the factors mentioned above are thus no longer taken into account. The Swedish Maritime Authority (SMA) and the shipowners consider that hours, which are not regulated as rest hours, are working hours. The unions state that the safe manning certificates issued by the SMA provide that a position can be exempted if the rest of the crew can work within the limits of Act 958/1998. This has resulted in crews being cut down to an absolute minimum, especially on small ships, and thus in an increase of violations because of excessive overtime, as almost all additional work that has to be done on a ship immediately means that it violates the Act. According to the unions' observations, the regulations are not sufficiently controlled to ensure their application, and violations are not adequately sanctioned.

Finally, the seafarers' organizations invoke article 19, paragraph 8, of the ILO Constitution. In their view, the adoption by Sweden of Convention No. 180 (and the introduction of Act 958/1998) means far less favourable conditions for seafarers on ships flying the Swedish flag, since Sweden now permits a maximum of 91 working hours per week compared to the earlier legislation with a maximum of 72 hours a week.

Government's latest report

On account of an earlier request from workers' organizations to amend the present law by means of regulating the working hours instead of the hours of rest, the Government refers to a report of the Swedish Maritime Inspectorate (SMI). The report gives as reasons for the shift to the regime of minimum hours of rest, the provisions concerning hours of rest for watchkeepers in the International Convention on Standards of Training, Certification and Watchkeeping (STCW Convention) as amended in 1995, and the need to ensure that the two-shift system would not be precluded.

The SMI further explains the reasons for stipulating the maximum yearly working hours. Section 21 of Directive 2003/88/EC, which is not applicable to seafarers, requires Member States to take the necessary measures to limit the number of hours of work of workers on board a seagoing fishing vessel flying the flag of a Member State, to 48 hours a week over a period not exceeding 12 months. In order to harmonize protection for fishers and seafarers, it was decided to apply the maximum yearly working hours not only to fishers but also to seafarers; just as the minimum hours of rest per day and week are applied to both seafarers and fishers. The stipulation of maximum yearly working hours does not affect Sweden's choice to fix a minimum of hours of rest to be provided to the seafarer in a given period of time.

Committee's comments

The unions claim that Sweden has violated article 19, paragraph 8 of the ILO Constitution. The Committee's mandate, however, is to focus on the supervision of the application of ratified Conventions and, at the time of ratification of the Convention in 2000, Act No. 958/1998 that the unions are taking exception to was already in force. There is, therefore, no scope for further examining this allegation of the unions under the article 22 procedure.

Article 4 of the Convention. Normal working hours' standard. The unions assert that the SMA and the shipowners consider that hours, which are not regulated as minimum rest hours, are working hours, and that the Convention has been implemented in Swedish legislation in such a way that a seafarer can work 13 to 14 hours a day or 91 hours per week, for almost six and a half months without relief. According to this Article of the Convention, ratifying Members acknowledge that the normal working hours' standard for seafarers, like that for other workers, shall be based on an eight-hour day with one day of rest per week and rest on public holidays. While noting that section 7 of Act 958/1998 provides for compensation of hours worked above 40 hours a week, ***the Committee requests the Government to indicate by what means it is ensured that the mathematically admissible maximum of 91 hours of work per week retains its exceptional***

character, thus ascertaining that the normal working hours' standard for seafarers of 48 working hours per week, as acknowledged by Sweden through its ratification of the Convention, remains meaningful.

Section 7 of Act 958/1998 stipulates that working hours above 40 hours a week should be paid in accordance with a collective agreement, or should be compensated by spare time in port. The unions indicate that it is not specified when this compensation should be given. ***The Committee asks the Government to provide details as to the procedure for compensating seafarers working more than 40 hours a week, and to explain how section 7 of Act 958/1998 is enforced in practice.***

Article 5, paragraph 1(b). Limits on hours of rest. Given that there are ships registered in Sweden that operate on a system where the watchkeeping responsibilities are shared by only two officers, ***the Committee requests the Government to indicate: (i) what measures have been taken to avoid infringements of the requirements of the Convention as regards rest hour limits, resulting from additional work which officers have to perform outside their watchkeeping routine, e.g. duties under the International Ship and Port Facility Security (ISPS) Code; (ii) whether the examination of the records of ships operating on a two-shift system has revealed infringements of the requirements of the Convention; and (iii) what measures have been taken to avoid any future infringements.***

Article 11. Manning. The unions state that the safe manning certificates issued by the SMA provide that a position can be exempted, if the rest of the crew can work within the limits of Act 958/1998, and that this practice has resulted in crews being cut down to an absolute minimum. ***The Committee asks the Government to indicate by what means it is ensured that, when determining, approving or revising manning levels, the competent authority takes into account the need to avoid or minimize, as far as practicable, excessive hours of work, to ensure sufficient rest and to limit fatigue, in conformity with this Article of the Convention.***

As to the unions' allegation that the application of provisions concerning hours of rest is not sufficiently controlled and violations are not adequately sanctioned, ***the Committee refers to its comments made in a request directly addressed to the Government concerning Articles 9, 10 and 15 of the Convention, as well as Part V of the report form. Please also describe how the provision prescribing a maximum of yearly working hours is controlled and enforced in practice.***

[The Government is asked to reply in detail to the present comments in 2008.]

United Kingdom

Anguilla

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

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

For a number of years the Government has failed to reply to the Committee's comments concerning the application to Anguilla of section 37 of the 1979 United Kingdom Merchant Shipping Act, which amended section 15 of the 1970 United Kingdom Merchant Shipping Act, removing the possibility to deprive seamen of the right to unemployment indemnity where they have failed to exert reasonable efforts to save the ship, persons and cargo.

The Committee therefore hopes that the Government will indicate in its next report whether measures have been taken to extend the above section 37 of the 1979 Merchant Shipping Act to Anguilla, so as to guarantee to seamen payment of unemployment indemnity for a period of at least two months in the event of loss or foundering of the vessel and, if so, to communicate the relevant text.

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

Bermuda

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

The Committee notes with satisfaction the adoption of the Merchant Shipping (Training, Certification, Manning and Watchkeeping) Regulations 2005, giving effect to its previous comments concerning *Article 2, paragraph (a)(i)* (standards of hours of work).

With reference to the Committee's previous query regarding the applicability of the new Employment Act 2000 to seafarers, the Government indicates that the Ministry of Labour, Home Affairs and Public Safety has posed the question to the Attorney General's Chambers and is awaiting their legal advice. Noting that the Employment Amendment Act of 2006 contains an amendment of the term "employee", ***the Committee hopes that the Government will soon be able to clarify whether the Employment Act covers seafarers and, if so, how it interacts with the provisions contained in the Merchant Shipping Act 2002 and the regulations issued thereunder.***

Article 2(a)(i) of the Convention. Safety standards (Conventions included in the Appendix to Convention No. 147, but not declared applicable to Bermuda). Convention No. 73. Medical examination. In its previous comments, the Committee has requested the Government to ensure substantial equivalence of national legislation with Article 5(1) of the

Medical Examination (Seafarers) Convention, 1946 (No. 73). The Committee notes with interest that legislation is being enacted, which requires that seafarers aged from 18 to 40 years undergo medical examinations every two years, and that the new Merchant Shipping (Medical Examination) Regulations are currently at drafting stage. ***The Committee hopes that national legislation substantially equivalent to Convention No. 73 will be adopted in the near future and asks the Government to supply a copy of the new instrument as soon as adopted.***

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

Falkland Islands (Malvinas)

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

The Committee notes the information provided by the Government in its report. In particular, it notes with interest that the United Kingdom Merchant Shipping Act, 1970, as amended in 1979, applies to the Falkland Islands. In consequence, the proof that the seaman did not make reasonable efforts to save the ship and persons and property carried in it, may no longer deprive the latter from the right to the indemnity against unemployment guaranteed in case of loss or foundering of the vessel, in conformity with *Article 2 of the Convention*.

Isle of Man

Certification of Ships' Cooks Convention, 1946 (No. 69)

Article 4, paragraphs 2(c) and 3, of the Convention. In its previous comments, the Committee has pointed out that the definition in section 3 of the Merchant Shipping (Manning and Training) Regulations 723/1996, according to which persons with more than two years of service in the capacity of cook or assistant cook on a seagoing ship or in a commercial catering environment are accepted as “qualified cook” without further examination, does not comply with the requirements of the Convention.

In reply, the Government reiterates that the Isle of Man does not have facilities for the training or examination of ship’s cooks and does not issue any certification, and that section 3 of Regulations 723/1996 thus provides for the acceptance of cooks’ certificates issued in the United Kingdom or in another country at the discretion of the Isle of Man Marine Administration. The Government further refers to *Article 5* of the Convention and evokes the necessity to accept as qualified cooks persons with more than two years of service, so as to protect the employment of persons from countries other than the United Kingdom who work as cooks on ships registered in the Isle of Man, without necessarily having a formal qualification from their country of origin.

The Committee recalls that *Article 5* contains a temporarily limited flexibility clause, which would only apply to seafarers who have had a satisfactory record of two years’ service as cooks *before the expiration of a period not exceeding three years* from the date of entry into force of the Convention for the territory where the vessel is registered. The Committee emphasizes that the relaxation authorized in *Article 5* can no longer be used by the Isle of Man. In view of the lack of facilities for the examination and certification of ship’s cooks, ***the Committee requests the Government to take the necessary measures to ensure that no person shall be engaged as ship’s cook on board any vessel registered in the Isle of Man to which this Convention applies, unless he or she holds a certificate of qualification as ship’s cook issued in another territory and recognized by the competent authority of the Isle of Man.***

Accommodation of Crews Convention (Revised), 1949 (No. 92)

In 2005, the Trades Union Congress (TUC) submitted observations in relation to the report communicated by the Government of the United Kingdom on the application of the Convention.

In its observations the TUC had noted, on behalf of the National Union of Marine Aviation and Shipping Transport Officers (NUMAST), that *Article 1(5)* states that exemptions may only be granted “if the competent authority is satisfied, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, that the variations to be made provide corresponding advantages ...”.

The TUC maintained that it would appear that a number of exemptions have been granted to a small number of offshore supply vessels and smaller cargo ships in relation to mess rooms. Exemptions had also been granted for large vessels that operate with a centralized office for use by the deck and engine departments. Consultations had not taken place with the bona fide trade unions, for example NUMAST, registered in the Isle of Man.

These observations have been transmitted to the Government for any comments it wishes to make. In the absence of such comments, ***the Committee asks the Government to indicate whether any exemptions, as described by the TUC, have been granted without consultation with the bona fide trade unions of seafarers and, if so, to ensure that any variations to the requirements contained in Part III of the Convention be made after consultation with the organizations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, and to communicate particulars of all such variations to the Director-General of the International Labour Office.***

Montserrat

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

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

According to the Government's indications, the provisions of section 37 of the 1979 United Kingdom Merchant Shipping Act, which amends section 15 of the 1970 United Kingdom Merchant Shipping Act, removing the possibility to deprive seamen of the right to unemployment indemnity where they have failed to exert reasonable efforts to save the ship, persons, and cargo, have not been extended to Montserrat. *The Committee hopes that the Government will be able to re-examine the question and indicate, in its next report, the steps taken to extend to Montserrat the application of section 37 of the 1979 Merchant Shipping Act cited above, so as to ensure to seamen the payment of an unemployment indemnity for a period of at least two months without restriction, in case of loss or foundering of the vessel in conformity with the Convention.*

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

Uruguay

Placing of Seamen Convention, 1920 (No. 9) (ratification: 1933)

The Committee notes the information provided by the Government. It draws the Government's attention to the following points.

Article 4 of the Convention. The Government refers, with regard to employment offices for seafarers, to the Register of Personnel of the Merchant Marine established by Decree No. 463/968 of 23 July 1968. However, according to the observations made by the Single National Union of Seafarers and Allied Workers (SUNTMA), this Register has been abolished since 1973 and the period of dictatorship. It was successively replaced by an employment office (in the 1990s) and more recently by an office for the recruitment of seafarers, which has unfortunately never been operational. *The Committee recalls that, under the terms of the Convention, each Member agrees that "there shall be organised and maintained an efficient and adequate system of public employment offices", which may be organized either by representative associations of shipowners and seafarers jointly under the control of a central authority, or by the State itself. It requests the Government to provide information in its next report on the organization and maintenance of employment offices for seafarers.*

Article 5. As the Government indicated in previous reports that the bipartite advisory committee for seafarers, established by Decree No. 600/77, had not yet been set up in practice, the Committee has been requesting information for several years on the effect given to this Article in practice. Once again in its report the Government confines itself to enumerating the existing legislative provisions, without replying directly to the issue raised. *The Committee recalls that, under the terms of the Convention, external advisory committees for the supervision and the provision of advice concerning free public employment offices have to be constituted. It therefore requests the Government to provide information on the constitution of such committees in its next report and, in particular, to indicate whether or not the bipartite advisory committee created by Decree No. 600/77 has been set up in practice.*

Article 7. Under the terms of the Convention, the contract of engagement of seafarers has to include the necessary guarantees for protecting all parties concerned. Moreover, seafarers must be able to examine the contract before and after signing. However, according to the SUNTMA, certain maritime enterprises recruit non-unionized personnel and impose contracts without allowing them to examine the content or, even less so, to negotiate modifications. *The Committee requests the Government to provide information on the measures taken to ensure the protection of the contracting parties in its next report.*

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

The Committee notes the Government's report for the period ending 31 May 2005, as well as the statistics concerning general labour inspections. It also notes the comments of the Inter-Union Assembly of Workers–National Convention of Workers (PIT–CNT), alleging the absence of sufficient material and human resources available for the effective compliance, through the General Labour Inspection and the former National Institute of Minors (today INAU), with the inspection tasks attached to the functions and conditions of work in accordance with the Convention.

Article 15 of the Convention and Part III of the report form. *The Committee requests the Government to provide specific information, concerning the organization and working of the inspection services entrusted with the supervision of the present Convention.*

Part V of the report form. *Please give a general appreciation of the manner in which the Convention is applied in your country including extracts from the reports of the maritime inspection and maritime registration services and, if such statistics are available, information concerning the number of seamen signed on during the period under review, the number and nature of the contraventions reported, etc.*

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) (ratification: 1977)

The Committee notes with interest the information communicated by the Government regarding the application of Article 5 of the Accommodation of Crews Convention (Revised), 1949 (No. 92), relating to the inspection mechanisms in force, and, in particular, Decree No. 500/991, concerning the general procedure for complaints to the central administration, containing provisions on the procedure for the filing and examination of complaints which have been transmitted by the Government. Furthermore, the Committee would like to draw the Government's attention to the following point.

Article 3 of Convention No. 133. For a number of years now, the Committee has recalled that, according to this Article, "each Member for which this Convention is in force undertakes to comply, in respect of ships to which this Convention applies, with: (a) the provisions of Parts II and III of the Accommodation of Crews Convention (Revised), 1949 (No. 92); and (b) the provisions of Part II of this Convention". Once again, the Government's report fails to include information on this matter. **The Committee therefore asks the Government, once again, to take the necessary steps to give effect to these provisions, and to provide, in its next report, detailed information on any progress made in this regard.**

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (ratification: 1977)

The Committee notes with interest the creation of the tripartite advisory council on policies relating to labour inspection and social security, which is responsible, most notably, for promoting legislative development in respect of the prevention of occupational hazards and for coordinating the activities of bodies or institutions involved in the improvement of working conditions and the working environment. The Committee, however, draws the Government's attention to the following points.

Article 4, paragraph 3(h), of the Convention. Dangerous cargo and ballast. In reference to its previous comments, the Committee notes with regret that no measures have been adopted to prevent occupational accidents in the handling of dangerous cargo and ballast. **The Committee therefore requests the Government, once again, to take the necessary measures to bring legislation and practice into line with the provisions of this Article.**

Article 6. Inspection. In its comments made in 2001, the Committee asked the Government to take the necessary measures to ensure the proper application of the provisions of the Convention. In its report, the Government expresses its willingness to allocate additional resources to the labour inspection and social security services, both of which are considered strategic services. **The Committee requests the Government to indicate, in its next report, any progress made in this respect.**

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 7** (Saint Lucia); **Convention No. 8** (Luxembourg, Nigeria, Norway, Saint Lucia, Singapore, United Kingdom: British Virgin Islands); **Convention No. 9** (Netherlands: Netherlands Antilles, Panama, Romania, Slovenia, Spain); **Convention No. 16** (Dominica, Malta, Pakistan, United Republic of Tanzania); **Convention No. 22** (Bahamas, China, Iraq, Malta, Morocco, Netherlands: Netherlands Antilles, New Zealand, Pakistan, Panama, Seychelles, Singapore, Slovenia, Spain, United Kingdom: Anguilla, United Kingdom: Isle of Man); **Convention No. 23** (Azerbaijan, Djibouti, Iraq, Netherlands: Netherlands Antilles, Panama, Peru, Slovenia, Ukraine, United Kingdom: Anguilla, United Kingdom: Bermuda, Uruguay); **Convention No. 53** (Liberia, Malta, Mexico, Norway, Panama, Spain); **Convention No. 55** (Luxembourg, Spain); **Convention No. 56** (Bosnia and Herzegovina, Luxembourg, Peru, Slovenia); **Convention No. 68** (Norway, Panama, Spain, United Kingdom, United Kingdom: Isle of Man); **Convention No. 69** (Azerbaijan, Luxembourg, Netherlands: Netherlands Antilles, Panama, Peru, Russian Federation, Spain, Ukraine); **Convention No. 73** (Malta); **Convention No. 74** (Algeria, Guinea-Bissau, Netherlands: Netherlands Antilles, New Zealand, Panama, Slovenia, Spain); **Convention No. 91** (Guinea-Bissau, Poland); **Convention No. 92** (Australia, Azerbaijan, China: Macau Special Administrative Region, Greece, Luxembourg, Panama, Russian Federation, Ukraine); **Convention No. 108** (Algeria, Cameroon, Iraq, Italy, Latvia, Luxembourg, Panama, Romania, Saint Lucia, Spain, Sri Lanka, United Republic of Tanzania: Tanganyika, Ukraine, United Kingdom: St. Helena); **Convention No. 133** (Australia, Azerbaijan, Greece, Guinea, Russian Federation, Ukraine, United Kingdom: Gibraltar); **Convention No. 134** (Kenya, New Zealand, Spain); **Convention No. 145** (Netherlands: Aruba, Sweden); **Convention No. 146** (Bulgaria, Cameroon, Italy, Kenya); **Convention No. 147** (Azerbaijan, Barbados, Bulgaria, Iceland, Iraq, Ireland, Liberia, Luxembourg, Norway, Poland, Spain, Trinidad and Tobago, Ukraine, United Kingdom: Bermuda, United Kingdom: Gibraltar); **Convention No. 163** (Mexico, Romania, Switzerland); **Convention No. 164** (Mexico); **Convention No. 166** (Bulgaria, Guyana, Luxembourg); **Convention No. 178** (Albania, Finland, Ireland, Norway, United Kingdom); **Convention No. 179** (Bulgaria, Ireland); **Convention No. 180** (Belgium, Ireland, Malta, Morocco, Norway, Romania, Spain, Sweden).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 8** (Belgium); **Convention No. 16** (Trinidad and Tobago); **Convention No. 22** (Luxembourg);

Convention No. 23 (*Philippines*); **Convention No. 53** (*Luxembourg*); **Convention No. 58** (*Yemen*); **Convention No. 69** (*Algeria*); **Convention No. 74** (*Malta*); **Convention No. 108** (*Seychelles*); **Convention No. 134** (*Azerbaijan*); **Convention No. 147** (*Netherlands: Aruba*).

Fishers

Liberia

Minimum Age (Fishermen) Convention, 1959 (No. 112) (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:

Further to its previous comments, the Committee notes that under section 291 of the Liberian Maritime Law – Title II of the Liberian Code of Laws – a vessel means any vessel registered under Title II and a fishing vessel means a vessel used for catching fish, whales, seals, walrus and other living creatures at sea. Under section 326(1) of the Maritime Law the minimum age for admission to employment or work on Liberian vessels is 15 years.

The Committee notes that vessels eligible to be documented include, by virtue of section 51 of the Maritime Law, inter alia, vessels of 20 net tons and over engaged in coastwise trade between ports of Liberia or between those of Liberia and other West African nations; and seagoing vessels of more than 1,600 tons engaged in foreign trade. The Committee recalls in this connection that the Convention applies to fishing vessels which under the terms of *Article 1 of the Convention* include all ships and boats, of any nature whatsoever, whether publicly or privately owned which are engaged in maritime fishing in salt waters. *The Committee hopes that the Government will provide information on measures taken or envisaged to apply the Convention to all fishing vessels coming under the purview of Article 1 of the Convention.*

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

Medical Examination (Fishermen) Convention, 1959 (No. 113) (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:

For many years the Committee has asked the Government to indicate whether certain provisions applicable to merchant vessels, i.e. the Requirements for Merchant Marine Personnel (RLM-118) and Maritime Regulation No. 10.325(2), also apply to fishing vessels. *The Committee again expresses the hope that the Government will provide full explanations regarding the applicability of the Liberian Maritime Laws and Regulations to the medical examination of fishermen. The Government is requested to indicate whether consultations with the fishing-boat owners' and fishermen's organizations concerned, if they exist, had taken place prior to the adoption of the applicable laws and regulations on the nature of the medical examination and the particulars to be included in the medical certificate as required by Article 3, paragraph 1, of the Convention and to provide particulars on how the age of the person to be examined and the nature of the duties to be performed are taken into account in prescribing the nature of the examination as required by Article 3, paragraph 2.*

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

Fishermen's Articles of Agreement Convention, 1959 (No. 114) (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 notes the Government's earlier indication that the Committee's comments have been submitted to the Commissioner of the Bureau of Maritime Affairs for immediate action. *Referring to its previous comments, the Committee requests the Government to provide information on any possible reaction by the Commissioner. It also urges the Government to provide full information on each of the provisions of the Convention and each question in the report form approved by the Governing Body.*

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

Sierra Leone

Fishermen's Competency Certificates Convention, 1966 (No. 125) (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:

The Committee has been commenting for a number of years on the absence of laws and regulations giving effect to the Convention. In its last report, the Government states that progress is being made in this respect and that a national workshop on the formulation of fishing policies was organized. The Government also indicates that copies of the new legislation and the texts defining the new policies will be communicated to the ILO as soon as they are adopted.

The Committee asks the Government to provide detailed information on the outcome of the national workshop on the formulation of fishing policies and on any concrete progress made in respect of the adoption of national laws implementing the Convention. The Committee understands that the Office remains ready to offer expert advice and respond favourably to any specific request for technical assistance in this regard. *Finally, the Committee would appreciate receiving up to date information*

concerning the fishing industry, including statistics on the composition and capacity of the country's fishing fleet, the approximate number of fishers gainfully employed in the sector, etc.

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

Trinidad and Tobago

Fishermen's Competency Certificates Convention, 1966 (No. 125) (ratification: 1972)

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

The Committee has been commenting for a number of years on the failure of the Government to take any measures to apply the Convention since its ratification in 1972. The Committee notes with regret that, based on the information contained in the Government's last report, no progress has been made regarding the adoption of laws and regulations giving effect to the provisions of Parts II (Certification), III (Examinations) and IV (Enforcement measures) of the Convention. The Government refers to the Shipping Act No. 24 of 1987 as partially applicable to the fishing sector but specifies that the ministerial regulations provided for in section 87(1) of the Act regarding the certification of competency of masters, officers and engineers of fishing vessels have not as yet been issued. The Government further indicates that the Caribbean Fisheries Training and Development Institute provides training for personnel in the fishing industry and issues certificates of participation upon the completion of its training programmes.

The Committee hopes that, in the interest of maintaining a meaningful dialogue with the supervisory organs of the ILO, the Government will make every effort, without further delay, to ensure full compliance with the requirements of the Convention in law and in practice. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this respect. *The Committee requests the Government to provide general information on the fishing sector including, for instance, up to date statistics on the number of registered fishermen, the type and number of fishing vessels, the activities of the Caribbean Fisheries Training and Development Institute and the number of fishermen trained per year, as well as any other particulars bearing on the manner the Convention is applied in practice.*

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

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 112** (Ecuador, France: French Guiana, France: Guadeloupe, France: Martinique, France: Réunion, Guatemala, Mauritania, Mexico, Peru, Suriname); **Convention No. 113** (Azerbaijan, Belgium, Brazil, Costa Rica, Croatia, Cuba, Ecuador, France: French Guiana, France: Guadeloupe, France: Martinique, France: Réunion, Germany, Guatemala, Guinea, Netherlands, Netherlands: Aruba, Norway, Panama, Peru, Russian Federation, Slovenia, Spain, Tunisia, Uruguay); **Convention No. 114** (Belgium, Costa Rica, Cyprus, Ecuador, Guatemala, Mauritania, Netherlands, Panama, Peru, Spain, Tunisia, Uruguay); **Convention No. 125** (Belgium, Djibouti, France, France: French Guiana, France: Guadeloupe, France: Martinique, France: New Caledonia, France: Réunion, France: St. Pierre and Miquelon, Germany, Senegal); **Convention No. 126** (Azerbaijan, Belgium, France: French Polynesia, France: New Caledonia, Germany, Greece, Norway, Russian Federation, Serbia, Sierra Leone, Spain, Tajikistan, United Kingdom).

Dockworkers

Algeria

Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32) (ratification: 1962)

1. The Committee notes the information contained in the Government's report, including some information supplied in reply to its comments regarding, inter alia, *Article 9 of the Convention*. The Committee also notes Executive Decree No. 05-102 of 26 March 2005 laying down the special regime of labour relations for seafarers in maritime transport, merchant and fishing vessels.

2. *Articles 12, 13 and 15 of the Convention. Application of the Convention.* With reference to the comments it has been making for several years, the Committee regrets to note once again, that the Government's report still contains no information concerning the adoption of implementing regulations covering ports and docks, in application of Act No. 88-07 of 26 January 1988 in the general framework for the prevention of occupational risks laid down by this Act. ***The Committee recalls that a long period has passed since ratification of this Convention and can only express the hope that the Government will take the necessary measures in the very near future to give full effect to the provisions of the Convention.***

3. *Article 17. Inspection.* The Committee notes the reference to Inter-Ministerial Order of 5 November 1989 and to the sample ship/land control sheet used by the ARZEW port company set out in this Order. Further to the comments it has been making since 1994, ***the Committee once again requests the Government to supply copies of documents 1 and 2 issued by the Ministry of Transport and attached to the Inter-Ministerial Order of 5 November 1989 which, according to section 2 of that Order, lay down the control procedure.***

[The Government is requested to reply in detail to the present comments in 2007.]

Brazil

Dock Work Convention, 1973 (No. 137) (ratification: 1994)

The Committee notes the communication from three dockworkers' unions of the port of Suape, in the State of Pernambuco (FENCCOVIB, FNE and FNP), which was forwarded to the Government in February 2006. According to these unions, as of 16 May 2004, a private port operator stopped hiring dockworkers registered in the registry (*trabalhadores portuários avulsos em sistema de rodízio*) and proceeded to hire 250 workers under precarious conditions. The dockworkers' unions maintain that the hiring carried out by the private port operator is inconsistent with the national legislation relating to ports and with the provisions of both Convention No. 137 and the Dock Work Recommendation, 1973 (No. 145). The affected workers in the port of Suape should receive compensation for the involuntary unemployment imposed upon them by the use of new technology in the handling of cargo. The Committee notes that the Government has not provided its observations regarding the issues raised by the dockworkers' unions of the port of Suape. The Committee refers back to its 2004 observation, which also reflected the concern of a dockworkers' union of the Vila Velha port terminal in the State of Espírito Santo. ***The Committee asks the Government to provide information, in its report due in 2007, on the manner in which the Convention is applied in all ports in the States of Espírito Santo and Pernambuco and on the steps taken to overcome the difficulties referred to by the unions. The Committee hopes that the Government will be able to provide detailed information on the results achieved at the tripartite level to give effect to the provisions of Articles 2 and 5 of Convention No. 137, including information on achievements under the Integrated Programme for the Modernization of National Ports (Part V of the report form).***

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 32** (*Azerbaijan, Belarus, Croatia, Honduras, India, Slovenia, Uruguay*); **Convention No. 137** (*Afghanistan, Mauritius*); **Convention No. 152** (*Congo*).

Indigenous and Tribal Peoples

Argentina

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2000)

1. The Committee notes the Government's detailed report and the annexes thereto. It notes that the Office provided technical assistance on 11 and 12 September 2006 following a request from the Government, with the aim of addressing the issues raised by the Committee in its most recent comments. In that context, the Ministry of Labour's International Affairs Department examined with the Office the need to strengthen the institutional basis in order to give better effect to the Convention, particularly the bodies responsible for coordinated and systematic action (*Articles 2 and 33 of the Convention*), and those responsible for consultation, participation and representativeness issues. The Committee notes with particular interest that, according to the report, the Government has adopted and is planning various measures to achieve these objectives gradually.

2. The Committee notes with interest that at the Government's request, a workshop/seminar on the Convention is being organized with technical assistance from the Office for April 2007 and is to be attended by representatives from the bodies that apply the Convention, from the provinces and from indigenous peoples.

3. *Article 1, paragraph 2. Self-identification and legal personality.* The Committee notes that to obtain recognition, indigenous communities may apply to the National Registrar of Indigenous Communities (ReNaCi) for legal personality, and that in some provinces it can be obtained from provincial registrars, and that the National Indigenous Institute (INAI) helps the communities to prepare the requisite documents. It further notes that there has been progress in the recognition of certain communities, including eight communities in the Province of Río Negro. The Committee hopes that the Government will pursue its efforts to ensure that in the near future, a high proportion of communities obtain recognition and hence full enjoyment of all the rights deriving from it. ***The Committee notes that the ReNaCi has registered all indigenous communities, whether or not they have legal personality, and requests the Government to send information on the percentage of communities that already have legal personality and the percentage that gain recognition by the time of the Government's next report, so that the Committee may ascertain the progress made in this matter.***

Consultation and coordinated and systematic action

4. *Articles 6, 2 and 33.* The Committee notes that in order to ensure that indigenous people participate in the "Committee to align the domestic legislation with Convention No. 169", procedures are being established for such participation. With this in view, the Executive, through the INAI, has promoted the establishment of the Indigenous Participation Council (CPI). According to the report, the CPI is made up of indigenous representatives of all the indigenous peoples in each province, elected by genuine community representatives' assemblies. A second stage will see the establishment, through the CPI, of the Coordinating Council provided for in Act No. 23302, which will consist of representatives of the Ministries of the Interior, the Economy, Labour, Education and Justice, the provinces and the indigenous peoples. The Coordinating Council's duties include overseeing the National Register of Indigenous Communities, identifying problems and establishing priorities for solving them, and setting up the INAI's programme of activities for the long and medium term. Furthermore, at its first national meeting, the CPI set up a bureau for the coordination of representatives at regional level. ***The Committee hopes that the Government will pursue its efforts to put the Coordinating Council into operation at an early date and that it will report on progress made regarding this matter. It also asks the Government to specify whether the minutes of CPI meetings are public, enabling indigenous communities to keep abreast of issues dealt with in the CPI thus ensuring transparency in consultation and participation procedures and in their results, which will also influence the extent to which they are observed. The Committee would also be grateful if the Government would state whether only communities with legal personality participate or whether other communities may also take part whether or not they have legal personality. While noting with interest that the Government is laying institutional bases for coordinated and systematic application of the Convention, the Committee hopes that the Government will pursue its efforts to strengthen these bodies in order to broaden the institutional basis for further participation of indigenous peoples in public policies affecting them, in accordance with Articles 2 and 33 of the Convention. Please report on progress made in this regard.***

5. *Article 15, paragraph 2. Natural resources.* The Committee notes that a decision of 2006 by the Administrative Tribunal of the Province of Jujuy ordered the provincial government to comply with *Article 15(2)* of the Convention by allowing the participation of indigenous communities in all administrative proceedings concerning lands which might affect their rights in some way, particularly proceedings before the Administrative Court for Mines. It also notes that a decision of 2004 in the Province of Chaco ruled that the Forestry Act was unconstitutional because the indigenous peoples were not consulted about it. ***While noting with interest that the courts are applying the provisions of the Convention, which in Argentina take precedence over other laws, the Committee requests the Government to pursue its efforts to incorporate this Article on consultation and natural resources in the legislation in such a way as to ensure uniform application in the various provinces. The Committee hopes that the Government will keep it informed of progress in this respect.***

6. *Application of the Convention and federalism.* The Committee also notes that the Government refers to difficulties in applying some key provisions of the Convention, such as those pertaining to land and natural resources, because of the deepening of federalism that occurred following the constitutional reform of 1994 which placed responsibility for these matters in the hands of the provinces. It notes the priority given to the need to establish federal competence for matters involving indigenous communities and peoples. Furthermore, according to the report, article 75(17) *in fine* of the Constitution of the Argentine Republic provides for involvement of the provinces in the issuing of legislation, which means that the provinces can take part in developing the rights of indigenous peoples and communities in law, provided they recognize the minimum fundamental rights laid down in the national Constitution, it being understood that in Argentine law international treaties take precedence over the ordinary law. ***The Committee hopes that the national Government will take the necessary steps to disseminate the rights laid down in the Convention among provincial governments and parliaments, and that it will make use of the abovementioned participation to ensure that the provincial parliaments develop legislation that meets the requirements of the Convention. It also asks the Government to provide information on progress made in this regard.***

7. *Lands – evictions.* The Committee notes with interest the promulgation of Act No. 26160 of 23 November 2006 suspending for four years the execution of any court or administrative decisions or proceedings for the eviction of indigenous communities from lands they traditionally occupy. It also notes with interest that in the first three years following the entry into force of the new law, the INAI is to carry out a survey of the technical, legal and registration aspects of the ownership status of these lands and a fund of 30 million pesos is to be set up for the survey and for the regularization programmes, for which the INAI will be responsible. ***The Committee invites the Government to provide information on the practical application of the Act and on the status of the survey and the regularization process. Noting that the new law is to apply to original indigenous communities “whose legal personality has been registered in the ReNaCi or relevant provincial registry, or pre-existing communities”, it asks the Government to take all necessary steps to speed up recognition of the legal personality of communities that have not yet obtained it and that meet the requirements of Article 1 of the Convention, to specify the meaning of the term “pre-existing communities”, and to keep the Committee informed in this regard.***

8. The Committee notes that at its 297th Session in November 2006, the Governing Body declared receivable a representation by the Union of Education Workers of Río Negro (UNTER) alleging non-compliance by the Argentine Government with some provisions of the Convention.

The Committee is also raising other points in a request addressed directly to the Government.

Colombia

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1991)

1. In 2005, the Committee took note of a communication from the Workers' Trade Union Confederation (USO), received on 31 August 2005 and sent to the Government on 7 September 2005, concerning the situation of the Curbaradó and Jiguamiandó, which are communities of African extraction. The Committee noted that the Government had not replied to the USO's observations. It also asked the Government and the USO to specify whether the abovementioned communities identify themselves as tribal communities within the meaning of *Article 1, paragraph 1(a), of the Convention* for the purpose of determining whether they are covered by the Convention. The Committee notes that this year, the USO sent observations which were received on 31 August and 27 September and sent to the Government on 3 October 2006. It also notes the information sent by the Government on the status of consultations with the U'wa people, received on 3 October 2006 and the Government's report, received on 15 November 2006. In view of the late arrival of the USO's observations and the Government's report, as far as the situation of the Curbaradó and Jiguamiandó communities is concerned the Committee has examined only those comments that address the matter of the coverage of the Convention on which it requested further information from the USO and from the Government, and the direct consequences of the definition of these peoples. It will examine the other matters in its future comments.

Communities of African extraction: the Curbaradó and Jiguamiandó

2. *Article 1 of the Convention. Coverage.* In 2005, the Committee expressed the view that in the light of the information sent by the USO, the black communities of Curbaradó and Jiguamiandó appeared to fulfil the requirements set in *Article 1, paragraph 1(a), of the Convention*, according to which the Convention applies to “tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations”. Furthermore, from the information provided in the communication, the representatives of the community councils of the Curbaradó and the Jiguamiandó had participated in preparing the USO's observations, and it appeared that in seeking application of the Convention to their communities, these peoples identify themselves as being tribal. The Committee further noted that the definition of “black community” in Act No. 70 appeared to coincide with the definition of tribal peoples in the Convention. It accordingly asked the Government and the USO to specify whether these communities identify themselves as tribal within the meaning of *Article 1, paragraph 1(a)*, and requested the Government to give its reasons if it deems that these communities are not tribal peoples within the meaning of the Convention. The

Committee notes that the USO confirmed that the communities identify themselves as tribal. It also notes with satisfaction the Government's statement that the Curbaradó and Jiguamiandó communities, which are of African extraction, are covered by the Convention. ***The Committee requests the Government to state whether all the communities of African extraction recognized by Act No. 70 of 1993 are covered by the Convention.***

Lands and natural resources

3. In its comments of 2005, the Committee noted that, according to the USO, since 2001 rights abuses against these communities have been related to the extensive cultivation of oil palms and African palms, and stock-raising projects, which have been undertaken despite the existence of collective title to these lands; and that the "dispossession of the lands of these communities has also been achieved through unlawful legal acts by palm-growing enterprises by means, among others, of the conclusion of contracts in violation of Act No. 70, fraudulent misrepresentation, deceit, the drawing up of legal acts which purportedly give the approval of these communities, the misrepresentation of the functions of duly recognized and registered representatives of the communities, agreements for the establishment of agricultural undertakings facilitated by public officials who are members of the armed forces, coercion and direct threats against occupants, who are frequently compelled to sell their property through fear or the absence of any other beneficial option". The USO referred to intensive deforestation for the cultivation of African palms and stock-raising, observing that these have given rise to devastating social and environmental damage. It also reported that the Colombian Rural Development Institute (INCODER) estimated that 4,993 hectares of the collective lands of the Curbaradó and the Jiguamiandó had been taken over for palm cultivation; that 810 hectares were used for stock-raising; that 93 per cent of the area under palm cultivation was located in their collective lands, and the remaining 7 per cent consisted of private property, awarded by the Colombian Agrarian Reform Institute (INCORA) before Act No. 70 took effect.

4. In its comments on these matters, the Committee observed that if it was confirmed that these communities are covered by the Convention, *Articles 6, 7 and 15* (consultations and natural resources) and *Articles 13 to 19* (land) should apply. The Committee referred in particular to the right of these peoples to return to their traditional lands as soon as the grounds for relocation and transfer ceased to exist (*Article 16, paragraph 3*), and to the measures envisaged by the Government against any unauthorized intrusion in the lands of the peoples concerned for any unauthorized use by persons alien to them (*Article 18*).

5. *Lands.* The Committee notes the measures taken by the Government to demarcate collective territories of the community councils of Jiguamiandó and Curbaradó, which aim in particular at recovering lands improperly occupied by reviewing unlawfully granted titles or rights. It notes in particular that the State Council determined the validity of titles granted by INCORA registered in the public deeds registry offices "prior to the deadline for submission of the application for collective title for the black communities". ***Please provide further details and indicate the consequences of this decision.*** The Committee points out that the Convention protects not only lands that the peoples concerned already own but also lands that they traditionally occupy; and that according to the Convention, governments must take the necessary steps to determine the lands which the peoples concerned occupy traditionally and to guarantee effective protection of their rights of ownership and possession (*Article 14, paragraph 2*). The provisions of the Convention that address land issues, more specifically *Articles 13 and 14*, must be construed in the context of the general policy referred to in *Article 2, paragraph 1*, namely that governments shall have the responsibility for developing, with the participation of the peoples concerned, coordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity. In practice, these provisions must be implemented in parallel with those on consultation set forth in *Article 6*. ***Consequently, the Committee hopes that the Government will give full effect to the abovementioned Articles in demarcating lands traditionally occupied by the abovementioned communities. It asks the Government to keep it informed regarding this matter, indicating in particular the manner in which the communities participate in this process and giving particulars of the results of the measures adopted to recover the lands improperly occupied by individuals who are not members of the communities.***

6. The Committee notes with interest Decision No. 0482 of 18 April 2005 by the Regional Autonomous Corporation for the Sustainable Development of Chocó ordering the "suspension of all activities carried on for the purpose of establishing the cultivation of either the African palm or the oil palm within the jurisdiction of the Department of Chocó ... specifically in the areas over which the Jiguamiandó and Curbaradó communities have collective title ..., without the appropriate authorization or concession granted by the primary regional environmental authority – CODECHOCO". The Committee points out that according to *Article 15, paragraph 2*, "governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands". ***The Committee accordingly asks the Government to carry out consultations with the peoples concerned regarding the authorizations or concessions mentioned above and those for stock-raising, deforestation or logging projects, having regard to the procedure established in Article 6, to determine whether and to what extent the peoples' interests would be prejudiced, as required by Article 15, paragraph 2. It trusts that the Government will do its utmost to carry out the studies provided for in Article 7 in cooperation with the peoples concerned. It also invites the Government to examine the possibility of bringing the relevant legislation into conformity with the Convention, and to provide detailed information on this matter in its next report.***

7. *Consultations.* The Committee notes that the Government has initiated a process to move forward the regulation of various titles pursuant to Act No. 70 of 1993, with the participation of representatives of the community councils that hold collective titles. The Committee points out that the provisions of the Convention, including *Article 6*, apply to indigenous and tribal peoples as defined in *Article 1*. ***The Committee, therefore, asks the Government to undertake consultations with all the peoples involved in the process to adopt regulations with regard to regulate Act No. 70, without imposing any requirements such as ownership of the lands they traditionally occupy or membership of the community council. Please keep the Committee informed regarding this matter and on any progress made in the regulation process.***

The U'wa people

8. *Articles 6 and 15, paragraph 2.* The Committee notes the “Report on the Prior Consultation of the U'wa People” produced by the Directorate of Ethnic Groups of the Ministry of the Interior and Justice. The report indicates the measures taken by the Government and ECOPETROL SA for the purpose of holding prior consultations with the Association of Indigenous Councils and Traditional Authorities of the Department of Arauca – ASCATIDAR – and the Association of U'wa Councils and Traditional Authorities – ASOU'WA. The Committee notes that in both cases there have been difficulties in establishing and maintaining a constructive dialogue between the Government and the peoples concerned in adopting decisions and that the process has been going on for 14 years during which acts of violence have been committed against the U'wa community. The Committee points out that a climate of mutual trust is essential to any consultations and particularly in the present context where indigenous and tribal peoples mistrust state institutions and feel marginalized, due to complex realities that go back a very long way and which have yet to be overcome. ***Accordingly, bearing in mind that the Government requested technical assistance from the Office to facilitate consultations with the U'wa people pursuant to recommendations made in the report of the tripartite committee set up to examine a representation which the Governing Body adopted at its 282nd Session (November 2001), the Committee notes that the Office has again stated its readiness to help Colombia to give better effect to the recommendations of the supervisory bodies.***

The Committee hopes that, with the technical assistance of the Office, it will be possible to instil the necessary trust to facilitate consultations. It recalls that, 14 years having gone by, the committee set up to examine the representation expressed concern in its report “at the information received from the Central Unitary Workers’ Union (CUT) and other reliable sources suggesting the repeated use of force against the U'wa community by government soldiers and police” (paragraph 92). The Committee points out that given the lack of trust, such assistance ought to take place as part of a process and that a simple meeting would not suffice. The Committee invites the Government to accept the technical assistance of the Office and hopes that it will provide information on the follow-up to the present comment.

Ecuador

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1998)

1. The Committee notes that according to the report of the mission undertaken in October 2005 by the ILO Subregional Office for the Andean countries, the Government will set up a working group in the Ministry of Labour to examine the measures to be adopted to give effect to the recommendations made by the supervisory bodies in relation to the Convention and will invite ILO officials to participate in its meetings to provide the necessary technical assistance. ***The Committee hopes that the Government will keep it informed of the activities of the working group and the progress achieved.*** The Committee also notes with interest that the Government has requested ILO technical assistance for the implementation of the project “Labour integration of indigenous peoples”, the objective of which is to improve the application of the Convention. ***The Committee awaits further information on the commencement and development of such assistance.***

2. The Committee notes the difficulties encountered by the Government in providing the information requested to follow up the recommendations of the tripartite committee which examined the representation made by the Ecuadorian Confederation of Free Trade Union Organizations (CEOSL). The CEOSL alleged the failure to hold consultations through appropriate procedures, particularly with regard to the Shuar people, in relation to the granting of contracts conceding to individual contractors the right to carry out oil exploration and exploitation activities. The Committee notes with interest the Government’s request for ILO technical assistance to give effect to these recommendations. ***The Committee trusts that the Government will be in a position to provide detailed information with its next report on the effect given to the recommendations of the tripartite committee, and particularly on the following: the establishment of effective mechanisms for prior consultations; the progress achieved in practice with respect to consultations with the peoples situated in the zone of “Block 24”, including information on the participation of these peoples in the use, management and conservation of these resources and the benefits from oil exploitation activities, as well as their receipt of fair compensation for any damage caused by exploration and exploitation in the zone.***

3. The Committee draws the Government’s attention to the fact that consultation is the instrument envisaged by the Convention to institutionalize dialogue with indigenous peoples, ensure processes of inclusive development and prevent and resolve disputes. Consultation within the meaning of the Convention endeavours to harmonize interests that are

sometimes competing, through appropriate procedures. Accordingly, the provisions on consultation, and particularly *Article 6*, are the seminal provisions of the Convention on which the application of its other provisions are based.

4. *Part VIII of the report form.* The Committee, considering that the Convention is fundamentally an instrument that promotes dialogue and participation, wishes to remind the Government that this Part of the report form for the Convention, approved by the Governing Body, indicates that “although such action is not required, the government may find it helpful to consult organizations of indigenous or tribal peoples in the country, through their traditional institutions where they exist, on the measures taken to give effect to the present Convention, and in preparing reports on its application”. ***The Committee asks the Government to indicate whether such consultations have been held.***

The Committee is also raising other points in a request addressed directly to the Government.

Fiji

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1998)

1. *Articles 13–19 of the Convention. Land rights.* In its previous observation, the Committee noted two communications from the Fiji Commercial Services Union (FCSU) under article 23 of the ILO Constitution. The FCSU comments related to the system of management of land owned by the indigenous Fijians under the Native Land Act stating, inter alia, that there were no grievance procedures for resolving the growing number of land claims or disputes on the use to which the Native Lands Trust Board puts native lands, except through the Native Lands Commission, which is said to have too great a vested interest to be able to adjudicate objectively.

2. In its previous observation, the Committee took note of the complex political, legal and social situation underlying the communication submitted by the FCSU and requested the Government to comment on the degree to which it considers it can apply the Convention to the management of issues between elements of the indigenous population of the country, and to state whether it considers that the present system for resolving disputes over land rights is adequate for the needs of the population. While the Government failed to address these issues directly in its report, it reiterates that the indigenous landowners who are registered under the provisions of the Native Land Act make up the group of the national population that falls within the provisions of the Convention. It also states that the Native Lands Commission is charged with the duty of ascertaining the rightful and hereditary properties of the native owners; and that disputes regarding land boundaries or the chiefly title of each *mataquli* (clan) or *tikina* (district) or province, if not settled otherwise, are to be referred to the Commission. ***The Committee recalls the Government's obligation to ensure that the land rights of the indigenous population of the country are recognized and effectively protected, to ensure full enjoyment of these rights to the benefit of the communities concerned. It requests the Government to provide more detailed information on the activities of the Native Lands Commission, including any reports issued by the Commission. The Committee also asks the Government to indicate the procedures that are available to address grievances of indigenous landowners that relate to the management of their land, rather than to issues concerning title or boundaries.***

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

Guatemala

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1996)

1. In its observation of 2005, the Committee referred to a report of the Council of Mayan Organizations of Guatemala (COMG) sent by the General Central Union of Guatemalan Workers (CGTG) concerning consultation and participation, and to a communication from the Union of Guatemalan Workers (UNSITRAGUA) alleging that the peoples concerned had not been consulted regarding the granting of a licence to Montana-Glamis Gold. The Committee examined the above communications together with the Government's reply and requested information to be sent in 2006.

2. *Consultation and participation.* In its previous observation, the Committee noted that according to the COMG, there was still only token participation of indigenous peoples, there were no specific institutional mechanisms for carrying out consultations, and a large number of licences for exploration and exploitation of mineral resources had been granted without prior consultation with the indigenous peoples. It also noted that according to the Government, in March 2005, the Indigenous Advisory Council (CAI) was set up and that although there was no consultation machinery, an important item on the agenda of the Joint Committee for Reform and Participation is the framing of an “Indigenous Peoples Consultation Bill”. The Committee notes that the report again states that the Bill will shortly become law.

Article 15, paragraph 2. Communication from UNSITRAGUA alleging that the peoples concerned were not consulted to ascertain whether and to what extent their interests would be harmed by the granting of a licence to Montana-Glamis Gold

3. *Background.* In 2005, the Committee noted that according to UNSITRAGUA, the Government had granted Montana-Glamis Gold a licence for mining exploration and exploitation in the departments of San Marcos and Izábal in an area containing two of Guatemala's main lakes – Atitlán and Izábal – where there are eco-tourism resorts. When the

company's cylinder was brought in on 11 January 2005, under the escort of 1,300 members of the police and the army, the local population blocked the road in protest. A villager died as a result of these incidents.

4. It also noted that according to the Government, environmental impact studies had been carried out, that the licence was granted in San Marcos but not in Izábal, and that UNSITRAGUA's communication gave no explanation of how Lake Atitlán and Lake Izábal were damaged. The Government recognized that there is no institutional machinery for consultation of indigenous peoples but indicated that approaches had been made to the indigenous population, that a high-level committee had been set up whose members included representatives of the Executive and the Catholic Church, and that an understanding had been signed seeking amendment of the Mining Act with regard to royalties, environmental health and consultation with indigenous peoples.

5. The Committee notes from the Government's report that it is the understanding of the Ministry of Energy and Mines that the consultations provided for in *Article 15 of the Convention* apply only where the prospecting and exploitation is located within the lands of the indigenous peoples. The Committee reminds the Government that this Article provides for consultations when the natural resources are in the indigenous lands defined in *Article 13, paragraph 2*, which states that "the use of the term 'lands' in *Articles 15 and 16* shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use". The Committee also points out that the Convention covers not only areas occupied by indigenous peoples but also "the process of development as it affects their lives ... and the lands they occupy or otherwise use" (*Article 7, paragraph 1*). Accordingly, a project for exploration or exploitation in the immediate vicinity of lands occupied or otherwise used by indigenous peoples, or which directly affects the interests of such peoples, would fall within the scope of the Convention.

6. The Committee notes the Government's statement that until the Bill on the participation and consultation of indigenous peoples is adopted, the transitional consultation machinery will apply which is regulated by the ordinary law including section 76 of the Urban Development Councils Act, Decree No. 11-2001, which provides that consultation of the Maya, Xinka and Garifuna peoples may be carried out through their representatives in these councils. The Committee notes the Government's explanation that in practice, meetings have been held with the development councils at which detailed explanations have been given regarding mining applications and the reasons for considering that the activities involved will not affect the interests of the peoples represented by the councils, and that any damage sustained by the communities is covered by the surety that the enterprises are required to deposit.

7. While noting the Government's efforts to establish machinery for the consultation and participation of peoples who may be affected by mining projects, the Committee again asks the Government to pursue its endeavours to hold consultations with the peoples concerned, taking into account the procedures required by Article 6 of the Convention, to ascertain whether and to what degree their interests will be prejudiced, as prescribed in Article 15, paragraph 2, of the Convention. The Committee again asks the Government to examine whether, with the continuation of exploration and exploitation by Montana-Glamis Gold, it will be possible to carry out the studies provided for in Article 7 of the Convention in cooperation with the peoples concerned before the potentially harmful effects of these activities become irreversible. The Committee also invites the Government to redouble its efforts to shed light on the incidents in which a villager died in the course of a demonstration against the installation of a cylinder for the mine. The Committee would be grateful if in its next report, the Government would provide detailed information on these points.

8. Amendment of the Mining Act. The Committee notes that the High-level Committee of the Ministry of Energy and Mines recently submitted to the President of the Republic a draft amendment to the Mining Act which focuses among other matters on "information, participation and consultation of the peoples concerned". **The Committee trusts that this amendment will give effect in law to the prior consultations required pursuant to Article 15, paragraph 2, of the Convention, and will take into account the above comments on the provisions of Articles 6, 7 and 13. Please keep the Committee informed on progress made in amending the Mining Act.**

9. The Committee notes that according to the Government, Guatemala is to have technical assistance from the Office with a view to developing a model for consultation that conforms to the Convention. **In view of the abovementioned Indigenous Peoples Consultation Bill and the amendment of the Mining Act to include consultation, the Committee encourages the Government to pursue its efforts to obtain suitable instruments for consultation and participation which will attenuate disputes over natural resources and lay the foundations for inclusive development projects. It requests the Government to report on progress made and expected regarding these important issues.** The Committee notes with interest that a seminar on the Convention was held in November 2006 with the assistance of the ILO and hopes that this assistance will continue, and will facilitate the creation of an appropriate basis for the effective application of the Convention.

Articles 2 and 33. Coordinated and systematic action with the participation of indigenous peoples

10. Finally, the Committee points out that *Articles 2 and 33* of the Convention provide for coordinated and systematic action with the participation of indigenous peoples in applying the provisions of the Convention, and that *Article 33, paragraph 2*, provides for such participation from the conception through to the evaluation stage of the measures provided for in the Convention. Consultation, as envisaged in the Convention, extends beyond consultation on specific cases: it means that application of the provisions of the Convention must be systematic and coordinated and

undertaken in cooperation with the indigenous peoples as part of a gradual process in which suitable bodies and machinery are established for the purpose. The Committee notes in this connection that a coordinating body has been set up, the *Coordinadora Interinstitucional Indígena del Estado (CIE)*, comprising 29 state institutions involved in indigenous issues and that its purpose is to coordinate and advise on public policy relating to indigenous peoples. ***The Committee urges the Government, in cooperation with the peoples concerned, to move forward with the implementation of these Articles, and asks it to provide information on the measures adopted to this end.***

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

Mexico

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1990)

1. In 2004, the Committee noted the report of the tripartite committee appointed to examine the representations made by the Union of Academics of the National Institute of Anthropology and History (SAINAH) and the Trade Union of Workers of the National Autonomous University of Mexico (STUNAM), which was adopted by the Governing Body in March 2004 (document GB.289/17/3). Following up that report, the Committee requested the claimants to provide information in relation to paragraph 139(g) of the report (forced sterilization). In 2005, the Committee noted that the requested information had not been provided. The Committee notes the comments made by the Independent Union of Workers of La Jornada (SITRAJOR) on the subject, received on 16 March 2006 pursuant to article 23 of the ILO Constitution, which were forwarded to the Government on 13 April 2006.

2. The Committee noted that according to paragraph 126 of the report referred to above, in its reply to the allegations made by the trade union organizations concerning the practice of the forced sterilization of indigenous men and women, the Government stated that, should a person believe that his or her right to decide freely, responsibly and in an informed manner on the number of children that he or she wants has been infringed, he or she may lodge a complaint with the National Committee for Human Rights. Furthermore, in paragraph 135, the tripartite committee considered that it “does not have sufficient information to draw any conclusions. It considers, nevertheless, that the fact that these allegations have been made highlights the climate of suspicion and distrust created by the existing hostility with regard to the issue of indigenous rights in the country, and emphasizes the need for the Government to investigate these allegations and to punish severely all those who might be implicated in such actions”.

3. The Committee notes the reports of the Commission for the Defence of Human Rights (CODDEHUM–GUERRERO) and the National Human Rights Commission, provided by SITRAJOR, which refer to complaints, investigations, observations and recommendations regarding cases in which members of public health institutions, both state and federal, carried out vasectomies on indigenous men and placed intra-uterine devices in indigenous women as a birth control method without their free, informed and shared consent, in the States of Guerrero and Oaxaca. It also notes the report on a specific local study alleging that the health system for indigenous communities is precarious, and referring to the inhumane and discriminatory treatment provided for indigenous persons in health-care centres and the practice of forced contraception of women by tying their fallopian tubes without their consent. It notes the report of the Committee on the Elimination of Racial Discrimination (CERD) on the 15th periodic report of Mexico (CERD/C/473/Add.1), dated 19 May 2005, which refers in paragraphs 153–155 to the action taken by the National Human Rights Commission regarding allegations of the trade union organization concerning forced sterilization, and the document submitted to CERD by the Rapporteur designated by the previous report of Mexico. While noting that the Government has not challenged the comments of SITRAJOR, the Committee nevertheless observes that in an annex to its report in 2005, the Government reported on the various activities in the field of training, awareness raising and dissemination on free choice, informed consent and sexual and reproductive rights carried out by the Inter-Institutional Reproductive Health Group (GISR) and the National Centre for Gender Equity and Reproductive Health (CNEGSR) targeting indigenous peoples and health-care providers, particularly in the State of Guerrero, and the training measures adopted with a view to preventing any recurrence of the alleged practices. ***The Committee requests the Government to provide its comments on this communication, to supply information on the investigations conducted into the existence of the alleged practices, on the measures adopted to address these practices, such as providing compensation and imposing penalties, where appropriate, and on other action taken to prevent the recurrence of such practices.***

4. The Committee notes that in June 2006 the Governing Body adopted the report of the tripartite committee set up to examine the representation made under article 24 of the Constitution of the ILO by the Union of Metal, Steel, Iron and Allied Workers (document GB.296/5/3). ***The Committee asks the Government to provide information in its next report, together with the information requested by the Committee in its comments in 2005, on the action taken as a result of the recommendations of the Governing Body.***

Pakistan

Indigenous and Tribal Populations Convention, 1957 (No. 107) (ratification: 1960)

1. Recalling the comments received from the All Pakistan Federation of Trade Unions concerning the application of the Convention in 2003, the Committee notes another communication from the same organization dated 26 April 2005. In the recent communication it is stated that tribal peoples in Pakistan suffered great economic and social hardship and deprivation and that there was a need for the Government to bring national law and practice into conformity with the Convention, including through effective economic and social measures to develop tribal areas and to provide for basic needs of education, water, health and employment opportunities. The Committee notes the Government's report which contains some information in reply to the matters raised by the All Pakistan Federation of Trade Unions, as well as partial replies to the matters previously raised by the Committee. The Committee further notes the communication dated 23 January 2006 from the Employers' Federation of Pakistan, which was forwarded by the Government, outlining the contributions made by the employers to the development of the tribal areas.

2. The Committee recalls that under *Article 2 of the Convention*, the Government has the primary responsibility for developing coordinated and systematic action for the protection of the populations concerned, including action to promote the social, economic and cultural development of these populations and to raise their standard of living. In this regard, the Committee notes from the Government's report that the Annual Development Programme 2003–04 for the Federally Administered Tribal Areas (FATA) was allocated PKR3.26 billion to implement schemes in the areas of education and training, including skills development for women, health, communication, agriculture and rural development. The Committee also notes that Pakistan's 2003 Poverty Reduction Strategy Paper indicates that the Government has initiated a major development effort in the FATA "to reach inaccessible areas and expose them to the mainstream economic benefits" (paragraph 5.193). The Committee notes that among the objectives of this effort are the improvement of the living conditions of the rural poor, to boost agricultural production, and to improve the status of women through training and support for income-generating activities. ***The Committee requests the Government to provide in its next report information on the implementation of these development programmes in the FATA, including statistical data or other indicators on the basis of which the Committee can appreciate the progress made in raising the standard of living of tribal people in the different agencies, in accordance with the Convention. Recalling its previous comments, the Committee reiterates its request to the Government to provide information on the development activities in the Provincially Administered Tribal Areas, particularly those being implemented in Baluchistan.***

The Committee is raising other points in a request addressed directly to the Government.

Paraguay

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1993)

1. The Committee notes the information contained in the Government's report, received in March 2006, the information provided by the Government to the Conference Committee on the Application of Standards in June 2006 and the ensuing debate, as a result of which the Committee on the Application of Standards urged the Government to adopt measures to enable it to send on a regular basis the information requested by the Committee of Experts. It emphasized the importance of providing information on the practical application of the Convention, in particular regarding the various aspects relating to the recruitment and conditions of employment of indigenous persons. It recalled the Government's obligation to consult and ensure the participation of indigenous peoples with respect to measures that might affect them and it suggested that the Government should consider requesting further ILO technical assistance regarding the application of the Convention. The Committee notes that although all the information requested on the application of the Convention in practice has not been provided, the Government has made an effort to gather information in its report and to submit additional information during the Conference Committee on the Application of Standards. ***The Committee hopes that the Government will make efforts to provide its report on the application of the Convention within the established time limits and that, in particular, it will provide information on the application in practice of certain provisions indicated in the following paragraphs and the direct request. The Committee invites the Government to request the Office's technical assistance with a view to examining possible solutions to the problems of application indicated in the Committee's comments.***

Recruitment and conditions of employment

2. *Article 20 of the Convention.* With regard to discrimination in relation to wages and treatment based on the indigenous origin of workers, particularly those working on ranches within the country and for Mennonite communities (which in certain cases constitute situations of forced labour), the Committee notes the Government's indication that with the cooperation of the ILO, a field study was undertaken, which is summarized in the document entitled "Debt Bondage and Marginalization in the Paraguayan Chaco". The study shows that the labour situation of indigenous communities in the Paraguayan Chaco is often a result of cultural issues. The Government adds that the document was subjected to tripartite analysis in seminars in which the participants included representatives of indigenous communities and that the

Ministry of Justice and Labour dispatched labour inspectors to ascertain the situations described. The Committee notes with interest the Inter-Institutional Cooperation Agreement between the Ministry of Justice and Labour and the municipal authorities of Mariscal José Félix Estigarribia (the centre of the Paraguayan Chaco). Pursuant to the Agreement, a regional office of the General Directorate of Labour will be established to cover cases in the western region of the country, and the officials in that office will participate in radio programmes broadcast widely in the Chaco region to disseminate information regarding the labour rights of workers and employers inter alia. ***The Committee hopes that the Government will provide all the necessary means to the abovementioned office so that it is able to take effective action against discrimination and forced labour, and to ensure decent work for indigenous peoples. The Committee, in particular, asks the Government to keep it informed of the activities undertaken by the regional office to eliminate forced labour and discrimination and to give effect to Article 20 of the Convention and on the results and impact achieved in practice, particularly with regard to the situation on ranches and in Mennonite communities. Please also provide information on the number and outcome of inspections undertaken and the measures adopted as a result.***

Consultation and participation – coordinated and systematic action

3. *Article 6. Consultation.* The Committee notes that according to the report, Act No. 2822, “the Statutes of Indigenous Peoples and Communities”, approved by the National Congress on 3 November 2005, which repealed Act No. 904/81, “Statute of Indigenous Communities”, was partially vetoed by the executive authority upon the proposal of the Paraguayan Indigenous Institute (INDI) and representative indigenous organizations on the ground that it contained unconstitutional provisions and violated the rights of indigenous communities recognized in the Constitution. It also notes the Government’s indication that Bill No. 2822 was the culmination of a process initiated in March 2004 in the context of the programme for the institutional strengthening of the INDI, during which consultations were held with indigenous peoples through workshops, personal interviews with indigenous leaders, working meetings and visits to communities. The process concluded with an Indigenous Congress held in March 2005, which issued guidance for more effective application and compliance with constitutional rights, including the amendment of Act No. 904/81, which gave rise to the submission of the above Bill to the National Congress without a final review by the representative indigenous organizations. In its previous comments, the Committee noted the communication of the National Union of Workers (CNT) received on 10 August 2001, according to which the Bill referred to above governs the operation of the institutions responsible for the national indigenous policy, and observed that the obligation of consultation had not been given effect. ***As the Government plans to adopt legislation governing the rights of indigenous peoples at the national level, the Committee hopes that the Government, in the process of the adoption of the legislation on indigenous rights, will comply with the requirement of prior consultation in accordance with Article 6 of the Convention. The Committee considers that the consultation and participation machinery envisaged in the Convention contributes to the progressive implementation of the Convention on indigenous peoples. It further considers that by engaging in genuine dialogue with these peoples on issues which affect them, progress will be made in the development of inclusive instruments which will contribute to reducing tension and increasing social cohesion. The Committee hopes that the Government will keep it informed regarding the measures adopted or envisaged to ensure consultation within the meaning of the Convention on the relevant legislative and administrative measures, and particularly with regard to the Bill vetoed by the executive authority.***

4. *Articles 2 and 33. Coordinated and systematic action with the participation of indigenous peoples.* The Committee also wishes to draw the Government’s attention to the fact that *Articles 2 and 33 of the Convention* provide for coordinated and systematic action, with the participation of indigenous peoples, from the planning to the evaluation of the measures envisaged in the Convention. ***The Committee urges the Government to make every effort, in cooperation with the peoples concerned, to achieve progress in the implementation of these Articles.*** Indeed, the consultation envisaged by the Convention goes beyond consultation on specific cases and requires the whole system for the application of the provisions of the Convention to be implemented in a systematic and coordinated manner in cooperation with indigenous peoples. This presupposes a gradual process of the establishment of appropriate bodies and machinery for this purpose. ***The Committee requests the Government to provide information on the measures adopted in this respect.***

5. *Part VIII of the report form.* The Committee, considering that the Convention is fundamentally an instrument promoting dialogue and participation, wishes to remind the Government that this point of the report form, approved by the Governing Body, indicates that “although such action is not required, the Government may find it helpful to consult organizations of indigenous or tribal peoples in the country, through their traditional institutions where they exist, on the measures taken to give effect to the present Convention, and in preparing reports on its application”. ***The Committee asks the Government to indicate whether it is planning to hold such consultations.***

The Committee is addressing a request directly to the Government.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 107 (Pakistan); Convention No. 169 (Argentina, Ecuador, Fiji, Guatemala, Paraguay).**

Specific Categories of Workers

United Republic of Tanzania

Nursing Personnel Convention, 1977 (No. 149) (ratification: 1983)

The Committee notes that the information provided by the Government in its last report relates only to the application of the Convention in Zanzibar and provides no general overview of the situation prevailing in the country with regard to health-care policy and nursing services. The Committee recalls that no report on the application of the Convention in continental Tanzania has been submitted since 1993 and notes with regret that the fragmentary information relating to Zanzibar does not permit a complete assessment of the extent to which the Convention is given effect in national law and practice. The Committee considers that in the interest of maintaining a meaningful dialogue with the supervisory organs of the Organization, the Government should make a genuine effort to collect and transmit all relevant information regarding the employment and working conditions of nursing personnel in both private and public medical institutions. The Committee notes with concern that according to the Government's reports there seems to be no specific policy at the national level regarding nursing services nor does it appear that the employers' and workers' organizations have been consulted in this respect.

Under the circumstances, *the Committee asks the Government to prepare for its next session a detailed and fully documented report on the effect given to the main requirements of the Convention both in continental Tanzania and in Zanzibar, particularly as regards: (i) the formulation of a national policy on nursing services designed not only to improve the standards of public health care but also to provide employment and working conditions which are likely to attract persons to the profession and retain them in it. (Article 2(1) and (2)(b)); (ii) measures relating to nursing education and training as may be taken in consultation with representative professional associations such as the Tanzania Registered Nurses' Association (TARENA) (Article 2(2)(a) and Article 3); (iii) the institutional framework and practical modalities of consultations, if any, with the employers' and workers' organizations concerned in matters of nursing policy (Article 2(3) and Article 5(1)); (iv) sufficient protection for nursing personnel, in light of the constraints and hazards inherent in the profession, especially in terms of hours of work and rest periods, paid absence and social security benefits (Article 6); (v) measures to improve the occupational safety and health conditions of health workers, including any specific initiative aimed at protecting nursing personnel from HIV infection (Article 7).*

Finally, the Committee requests the Government to provide, in accordance with Part V of the report form, up to date information on the practical application of the Convention both in continental Tanzania and in Zanzibar, including for instance statistics on the nurse-to-population ratio, the number of students attending nursing schools and the number of nurses leaving or joining the profession, as well as any difficulties encountered in the application of the Convention (e.g. migration of qualified nurses to neighbouring African countries or to developed countries in Europe and North America, etc.).

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 149** (Congo, Kyrgyzstan, Zambia).

II. 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

Following its previous comments, the Committee notes the statement by a Government representative at the Conference Committee in June 2006, and the information on the activities held by the Office in the country to strengthen the capacity of the national authorities and social partners in discharging ILO constitutional obligations in relation to international labour standards. In May 2006, representatives of the Office visited the National Assembly to discuss issues related to the ratification of ILO Conventions, including the submission of all the instruments adopted by the Conference. The Committee hopes that the Government will soon provide the required information with regard to the submission to the National Assembly of the instruments adopted by the Conference between 1985 and 2006.

Antigua and Barbuda

The Committee notes with regret that the Government has not replied to its previous observations. It asks the Government to supply the relevant information concerning the submission to the Parliament of Antigua and Barbuda of the instruments adopted by the Conference during 11 sessions held between 1996 and 2006 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Argentina

The Committee notes with interest that the ratifications of Conventions Nos. 177 and 184 were registered in 2006. It refers to its previous comments and requests the Government to provide the relevant information with regard to the submission to the National Congress of the instruments adopted at nine sessions of the Conference held between October 1996 and June 2006 (84th, 85th, 86th, 88th, 90th, 91st, 92nd, 94th and 95th Sessions).

Armenia

The Committee notes with interest that in January 2006 the ratifications were registered of Conventions Nos. 14, 26, 87, 97, 132, 138, 143 and 182. It hopes that the Government will be able to report on the submission to the National Assembly of the instruments adopted by the Conference in 14 sessions held between 1993 and 2006 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Azerbaijan

The Committee notes with interest that the ratification of Convention No. 185 was registered on 17 July 2006. It refers to its previous comments and requests the Government to provide information with regard to the submission to the National Assembly (*Mili Mejlis*) of Recommendation No. 180 (79th Session), and the instruments adopted at the 83rd,

84th, 88th, 89th, 90th, 94th and 95th Sessions of the Conference. Please also indicate the date of submission of Recommendation No. 195 to the National Assembly.

Bahamas

The Committee notes with regret that the Government has not replied to its previous observations. It asks the Government to supply information on the submission to Parliament of the instruments adopted at the 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions.

Bangladesh

The Committee notes with regret that the Government has not replied to its previous comments. It asks again the Government to provide information on the submission to Parliament of the remaining instruments adopted at the 77th Session (Convention No. 170 and Recommendation No. 177), the 79th Session (Convention No. 173 and Recommendation No. 180), the 84th Session (Convention No. 179 and Recommendations Nos. 185, 186 and 187), and the 85th Session (Recommendation No. 188), as well as all the instruments adopted at the 81st, 82nd, 83rd, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions.

Belize

The Committee refers to its previous observations, and again asks the Government to take further measures in order to fulfil its constitutional obligation to submit the instruments adopted by the Conference to the National Assembly. It hopes that the Government will supply information on the submission to the National Assembly of the pending instruments adopted by the Conference at its 84th (Maritime) Session (October 1996), and the other 16 sessions held between 1990 and 2006 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Bolivia

1. In its 2005 observation the Committee noted that the international labour Conventions adopted by the Conference from 1990 to 2003 were submitted to the National Congress on 26 April 2005. The Committee asks the Government to also report on the decision taken by the National Congress with regard to the Conventions submitted. It also requests the Government to indicate the representative organizations of employers and workers to which the information forwarded to the Director-General concerning the submission of the above Conventions was communicated.

2. The Committee reiterates its hope that the Government will soon be in a position to provide all the information required by the questionnaire at the end of the *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, revised by the Governing Body in March 2005, on the submission to the National Congress of all the remaining Conventions, Recommendations and Protocols adopted by the Conference between 1990 and 2006.

Bosnia and Herzegovina

The Committee notes with interest that the ratification of Convention No. 144 was registered on 11 July 2006. It recalls that in May 2005 the Minister of Civil Affairs of Bosnia and Herzegovina requested the assistance of the Office in relation to submission procedures. It refers to its previous observations and hopes that the authorities of Bosnia and Herzegovina, together with the Office, will study ways in which the instruments adopted by the Conference since 1990, could be submitted to the competent authorities in the near future so as to ensure compliance with this essential constitutional obligation.

Botswana

The Committee asks the Government to supply all the relevant information with regard to the submission to the National Assembly of the instruments adopted by the Conference at its 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions.

Brazil

1. The Committee notes with interest the detailed report of the meeting of the Tripartite Committee on International Relations (CTRI), held on 8 March 2006, at which ratification of Conventions Nos. 150, 151 and 185 was proposed. The Committee recalls that, in February 2005, the CTRI asked the Ministry of Foreign Affairs to take the necessary steps to submit to the National Congress the Tenants and Share-croppers Recommendation, 1968 (No. 132), the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189), the Promotion of Cooperatives Recommendation, 2002 (No. 193), the List of Occupational Diseases Recommendation, 2002 (No. 194) and the Human

Resources Development Recommendation, 2004 (No. 195). The Committee hopes that the Government will shortly be in a position to report that all the instruments on which the CTRI has held consultations have been submitted to the National Congress.

2. The Committee recalls that submission to the National Congress of the following instruments is still pending: Conventions Nos. 128–130, 149–151, 156 and 157 and the other instruments adopted at the 52nd, 78th, 79th, 81st, 82nd (Protocol of 1995), 83rd, 84th, 85th, 86th, 88th, 90th, 91st, 92nd, 94th and 95th Sessions of the Conference.

Burkina Faso

The Committee asks the Government to provide the relevant information concerning the submission to the National Assembly of the instruments adopted at the 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions of the Conference.

Burundi

The Committee notes with interest the detailed information provided by the Government indicating that all the instruments adopted by the Conference at the sessions held between 1995 and 2004 were submitted to the National Assembly on 19 October 2005. It also notes that the Government has taken a position on whether to envisage the ratification of: the Protocol of 1995 to the Labour Inspection Convention, 1947; Convention No. 155 and its Protocol of 2002; and the Maternity Protection Convention, 2000 (No. 183). It welcomes the progress achieved in this respect and hopes that the Government will continue to provide regularly the information required on the constitutional obligation to submit the instruments adopted by the Conference to the National Assembly.

Cambodia

The Committee refers to its previous observations and recalls that the instruments adopted by the Conference at its 55th (Maritime) Session (October 1970), and at the sessions held from June 1973 to June 1994 (58th (Convention No. 137 and Recommendation No. 145); 59th to 63rd; 64th (Convention No. 151 and Recommendation No. 159); and 65th to 81st Sessions) are pending to be submitted to the competent authorities. It reiterates its hope that the Government will soon be in a position to transmit the relevant information regarding the submission to the National Assembly of the instruments adopted from the 82nd to the 95th Sessions of the Conference, held from 1995 to 2006.

Cameroon

The Committee notes that the Government has not provided information since June 2002 on the matters raised in previous observations. It once again requests the Government to provide all the relevant information concerning the submission to the National Assembly of the instruments adopted by the Conference at the 24 sessions held from 1983 to 2006, that is at its 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions.

Cape Verde

The Committee notes with regret that the Government has provided no information on the submission to the competent authorities of the instruments adopted by the Conference during 12 sessions held between 1995 and 2006 (82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Central African Republic

The Committee notes with interest that ratification of Conventions Nos. 120, 122, 131, 142, 144, 150, 155 and 158 was registered on 5 June 2006. The Committee also notes a communication from the Union of Central African Workers (USTC) which refers to the submission to the National Assembly of a number of Conventions and Recommendations. The Committee therefore refers to its previous observations and hopes that the Government will soon be in a position to announce the submission to the National Assembly of the instruments adopted by the Conference at 19 sessions held since 1988 (75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Chad

The Committee notes with regret that the Government has not provided the information requested for a number of years. It once again requests the Government to provide the information requested in the questionnaire at the end of the Memorandum on the submission to the National Assembly of the instruments adopted at 11 sessions of the Conference held between 1993 and 2006 (80th, 81st, 82nd, 83rd, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Chile

The Committee refers to its previous observations and requests the Government to provide all the information required on the submission to the National Congress of the instruments adopted at 11 sessions of the Conference held between 1996 and 2006 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Colombia

The Committee asks the Government to provide all relevant information on the submission to the Congress of the Republic of the instruments adopted at the 75th (Convention No. 168), 79th (Convention No. 173), 81st (Recommendation No. 182), 82nd, 83rd, 84th, 85th, 86th, 88th (Recommendation No. 191), 89th (Recommendation No. 192), 90th, 91st, 92nd, 94th and 95th Sessions of the Conference.

Comoros

The Committee notes with regret the substantial delay in relation to compliance with the obligation to submit the instruments adopted by the Conference. The Committee recalls that information is missing on the submission to the competent authority of the instruments adopted by the Conference at 15 sessions held between 1992 and 2006 (79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Congo

The Committee notes with regret that the Government has not provided information on the measures taken to overcome the substantial delay in its submission to the National Assembly of the instruments adopted by the Conference. It requests the Government to adopt the necessary measures for the submission to the National Assembly of the instruments adopted at the 54th (Recommendations Nos. 135 and 136), 55th (Recommendations Nos. 137, 138, 139, 140, 141 and 142), 58th (Convention No. 137 and Recommendation No. 145), 60th (Conventions Nos. 141 and 143, Recommendations Nos. 149 and 151), 62nd, 63rd (Recommendation No. 156), 67th (Recommendations Nos. 163, 164 and 165), 68th (Convention No. 157 and Recommendations Nos. 167 and 168), 69th, 70th, 71st (Recommendations Nos. 170 and 171), 72nd, 74th, 75th (Recommendations Nos. 175 and 176) Sessions, and between 1990 and 2006 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions of the Conference).

Côte d'Ivoire

The Committee refers to its previous observations and hopes that, when national circumstances so permit, the Government will provide relevant information on the submission to the National Assembly of the instruments adopted at 11 sessions of the Conference held between 1996 and 2006 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Croatia

The Committee notes the information provided by the Government in September 2006 indicating that the instruments adopted at the 94th and 95th Sessions of the Conference have not been submitted to the Croatian Parliament. In its previous comments, the Committee noted that the instruments adopted at the 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference had not been submitted to the Croatian Parliament because the translation had not yet been finished. It asks the Government to take appropriate measures in order to ensure that all the remaining instruments adopted by the Conference between 1998 and 2006 are submitted to the Croatian Parliament.

Democratic Republic of the Congo

Referring to its previous observations, the Committee requests the Government to provide all relevant information concerning the submission to Parliament in relation to the instruments adopted at 11 sessions of the Conference held between 1996 and 2006 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Djibouti

The Committee asks the Government to supply the required information on the obligation to submit to the National Assembly concerning the instruments adopted at 25 sessions of the Conference held between 1980 and 2006 (66th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions of the Conference).

Dominica

The Committee notes that the Government has not replied to its previous observations. It reiterates its hope that the Government will soon announce that the instruments adopted by the Conference during 14 sessions held between 1993 and 2006 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions) have been submitted to the House of Assembly.

El Salvador

The Committee notes with interest that the ratification of Conventions Nos. 87, 98, 135 and 151 was registered on 6 September 2006. The Government also reported, in October 2006, that it had initiated the legal studies for the submission of the instruments adopted at the 95th Session of the Conference. In its previous comments, the Committee observed the failure to submit to the Congress of the Republic the instruments adopted at the 62nd, 65th, 66th, 68th, 70th, 82nd, 83rd, 84th, 85th, 86th, 88th and 89th Sessions of the Conference, as well as the remaining instruments from the 63rd (Convention No. 148 and Recommendations Nos. 156 and 157), 67th (Convention No. 154 and Recommendation No. 163) and 69th (Recommendation No. 167) Sessions. The Committee requests the Government to provide information on the submission to the Congress of the Republic of all the remaining instruments, including Recommendations Nos. 193 and 194 (90th Session, 2002) and the instruments adopted at the 91st, 92nd, 94th and 95th Sessions (2003–06).

Equatorial Guinea

The Committee notes with regret that the Government has not replied to its previous observations. It again asks the Government to provide information on the submission to the competent authorities of the instruments adopted by the Conference at 13 sessions held between 1993 and 2006 (80th, 81st, 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Fiji

In reply to its previous observation, the Government indicates in a communication received in June 2006 that the outstanding reports concerning the eight international labour Conventions adopted between 1996 and 2003 were tabled for the required tripartite consultation in the Labour Advisory Board in July and October 2005. However, with parliamentary elections moved to May 2006, the newly appointed Cabinet had to deliberate on the matter in order to submit the pending instruments to the newly elected Parliament. The Committee invites the Government to comply to its constitutional obligation and reiterates its hope that the Government will announce soon that all the instruments adopted by the Conference at its 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions will be submitted to the Parliament of Fiji.

Gabon

1. The Committee refers to its 2005 observation and invites again the Government to report on Parliament's decision regarding Conventions Nos. 122, 138, 142, 151, 155, 176, 177, 179, 181, 184 and 185.

2. The Committee hopes that the Government will also be able to send the relevant information concerning the submission to Parliament of the other Conventions, Recommendations and Protocols not yet submitted to Parliament that were adopted at the 74th, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 92nd, 94th and 95th Sessions of the Conference.

Gambia

The Committee recalls that Gambia has been a Member of the Organization since 29 May 1995. It also recalls that, under article 19 of the Constitution of the Organization, each Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies "for the enactment of legislation or other action". The Governing Body of the International Labour Office has adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars on this subject. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the submission to the National Assembly of instruments adopted by the Conference at 12 sessions held between 1995 and 2006 (82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Georgia

The Committee recalls the Government's communication of August 2005 indicating that due to the changes that occurred in the country, the instruments adopted by the Conference were not submitted to Parliament. It hopes that the Government will soon overcome the difficulties encountered and will be able to announce that the instruments adopted by

the Conference at 12 sessions held between 1993 and 2006 (80th, 81st, 82nd, 83rd, 84th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions) have been submitted to Parliament.

Ghana

1. The Committee notes the information provided by the Government in July 2006 indicating that the instruments adopted by the Conference at its 88th, 89th, 90th, 91st and 92nd Sessions were sent by the Labour Department to the Sector Ministry for their submission to the Parliament of the Republic of Ghana. It hopes that the Government will soon announce that all the instruments adopted by the Conference at the seven sessions held between 2000 and 2006 have been submitted to Parliament.

2. The Committee recalls its previous comments and once again asks the Government to supply the indications required with regard to the submission to Parliament of the instruments adopted by the Conference at its 80th Session (Convention No. 174 and Recommendation No. 181), 81st Session (Convention No. 175 and Recommendation No. 182), 82nd Session (Convention No. 176 and Recommendation No. 183, and the Protocol of 1995) and 84th Session (Recommendations Nos. 185 and 186).

Grenada

The Committee notes with regret that the Government has not replied to its previous comments. It asks the Government to report on the submission to the Parliament of Grenada of the remaining instruments adopted by the Conference at 13 sessions held between 1994 and 2006 (81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Guinea

The Committee refers to its previous comments and asks the Government to provide the information requested regarding the submission to the National Assembly of the instruments adopted at ten sessions held by the Conference between October 1996 and 2006 (84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Guinea-Bissau

The Committee notes with interest that the instruments adopted by the Conference at several sessions held between 1992 and 2000, as well as the Maritime Labour Convention, 2006, were submitted to the National People's Assembly on 1 September 2006. The Government has also reported the submission to the President of the Council of Ministers for consideration and approval for ratification of Conventions Nos. 87, 122, 135, 144, 150, 151, 154, 175, 177, 181 and 183. The Committee welcomes the progress achieved in this respect and hopes that the Government will continue to provide information on the decisions taken with regard to the above Conventions, as well as on the submission to the National People's Assembly of the instruments adopted by the Conference at its 89th, 90th, 91st, 92nd and 95th Sessions.

Haiti

The Committee recalls that the Office has offered its assistance to the Government in order to fulfil its obligations concerning the submission of the instruments adopted by the Conference to the competent authorities. It recalls that the instruments in respect of which the Government has not provided information on the submission to the competent authorities are the following:

- (a) the remaining instruments from the 67th Session (Conventions Nos. 154 and 155 and Recommendations Nos. 163 and 164);
- (b) the instruments adopted at the 68th Session;
- (c) the remaining instruments adopted at the 75th Session (Convention No. 168 and Recommendations Nos. 175 and 176); and
- (d) all the instruments adopted from 1989 to 2006.

Iceland

1. The Committee notes the observation made by the Icelandic Confederation of Labour (ASI) regarding the obligation to submit the instruments adopted by the Conference to the Icelandic Parliament (Althing) and the Government's reply received in September 2006. ASI refers to the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, as revised by the Governing Body in March 2005, and claims that the procedure used by the Government is in breach of article 19 of the ILO Constitution and Article 5, paragraph 1(b), of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

2. ASI draws the Committee's attention to the procedure used by the Government in relation to the steps taken to submit instruments adopted by the Conference to Parliament. ASI indicates that the translations of the instruments are prepared in consultation with the organizations of employers and workers, normally during the year following each session of the Conference. ASI points out that in several cases the instruments were submitted with some delay. In addition, the reports submitted by the Government to Parliament do not contain any statement or proposals by the Government setting out any views as to the action to be taken in relation to the instruments adopted by the Conference. The reports are not placed on the Parliamentary agenda for discussion. In ASI's view, the aim of this procedure is not to obtain a decision from the competent authority, but solely to inform it.

3. In its reply, the Government indicates that, since 1946, it has fulfilled its obligation by reporting on the Conference to Parliament. The instruments adopted by the Conference have been appended to the report submitted to Parliament. In case of ratification, the Government has sought the approval of Parliament by tabling a parliamentary resolution for adoption. The Government admits that due to heavy workload within the administration, it has not always been possible to comply with the time limit set out in article 19 of the ILO Constitution.

4. *Time limits.* The Committee notes that the texts of the instruments adopted by the Conference, as communicated by the Office to the Government, have to be translated before their submission to Parliament. It further notes that the translations are prepared in consultation with the social partners and that, due to the heavy workload within the administration, the Government has not always been in a position to comply with the time limit of one year at most from the closing of the session of the Conference (article 19, paragraphs 5(b) and 6(b), of the ILO Constitution).

5. *Form of submission.* The Committee notes that the reports tabled before Parliament do not contain any proposals on the measures which might be taken for the enactment of legislation or other action. It recalls that an essential point to bear in mind is that at the time of or subsequent to the submission to Parliament of the instruments adopted by the Conference, governments should either indicate the measures that might be taken to give effect to the instruments that are submitted, or propose that no action should be taken or that a decision should be postponed (Part IV(b) of the Memorandum).

6. *Extent of the obligation to submit.* The Committee notes that, in case of ratification, the Government has sought the approval of Parliament by tabling a parliamentary resolution for adoption. It recalls that governments have complete freedom as to the nature of the proposals to be made when submitting the instruments and on the effect that they consider it appropriate to give to the instruments adopted by the Conference (Part III(b) of the Memorandum).

7. The Committee refers to its 2006 observation on the application of Convention No. 144, and trusts that the Government and the social partners will examine the measures that should be taken in order to comply with the time limits set out in the ILO Constitution for the submission of the instruments adopted by the Conference. As requested by the questionnaire at the end of the Memorandum, it asks the Government to indicate the proposals tabled on the measures which might be taken for the enactment of legislation or other action and the contents of the decision taken by Parliament on the instruments that were submitted (Parts II(b) and IV of the questionnaire).

Islamic Republic of Iran

The Committee notes the information provided by the Government in August 2005 that Recommendation No. 195 was communicated to the Office of the President of the Islamic Republic of Iran for discussion and consideration by the Cabinet before being submitted to the Islamic Consultative Assembly (Parliament) for final approval. It refers to its previous comments and hopes that the Government will be able to provide all relevant information indicating that the instruments adopted by the Conference at its 84th, 85th, 86th, 90th, 91st, 92nd, 94th and 95th Sessions have been submitted to the Islamic Consultative Assembly (Parliament).

Kazakhstan

1. The Committee notes that the Government has not communicated information on the submission to the competent authorities of instruments adopted by the Conference at 14 sessions held between 1993 and 2006.

2. The Committee notes that the Republic of Kazakhstan has been a Member of the Organization since 31 May 1993. It recalls that under article 19 of the Constitution of the International Labour Organization, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies "for the enactment of legislation or other action". The Governing Body of the International Labour Office adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars on this subject. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and any proposals made by the Government on measures to be taken with regard to the instruments that have been submitted.

3. The Committee, in the same way as the Conference Committee, urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Kenya

The Committee recalls the information provided by the Government in August 2005 indicating that because of a lack of resources, the labour boards and councils have not been able to meet. It noted that necessary arrangements were made to discuss the pending instruments for submission to the competent authorities, among other issues. It asks the Government to provide the other information requested on the submission to the National Assembly of the Protocols of 1995 and 1996 (adopted at the 82nd and 84th Sessions), and of the instruments adopted by the Conference at its 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions.

Kyrgyzstan

1. The Committee notes that the Government has not communicated information on the submission to the competent authorities of instruments adopted by the Conference at 15 sessions held by the Conference between 1992 and 2006.

2. The Committee notes that Kyrgyzstan has been a Member of the Organization since 31 March 1992. It recalls that under article 19 of the Constitution of the International Labour Organization, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies “for the enactment of legislation or other action”. The Governing Body of the International Labour Office has adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars on this subject. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and any proposals made by the Government on measures to be taken with regard to the instruments that have been submitted.

3. The Committee, in the same way as the Conference Committee, urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Lao People's Democratic Republic

1. The Committee notes that, in May 2006, the Government indicated that, according to the national Constitution, the National Assembly was the legislative body. It hopes that the Government will soon indicate that the instruments adopted by the Conference during 12 sessions held between 1995 and 2006 (82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions of the Conference) have been submitted to the National Assembly.

2. The Committee urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Liberia

1. The Committee notes with interest that the ratification by Liberia of the Maritime Labour Convention, 2006, was registered on 7 June 2006. It refers to its previous comments and asks the Government to indicate whether the instruments adopted by the Conference at its 88th, 89th, 90th, 91st, 92nd and 95th Sessions have been submitted to the National Legislature.

2. The Committee recalls that the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948 (No. 89), and the Protocol of 1995 to the Labour Inspection Convention, 1947, were not mentioned by the Government in its previous communications. It asks the Government to provide the corresponding information regarding the submission of the 1990 and 1995 Protocols to the National Legislature.

Libyan Arab Jamahiriya

The Committee refers to its previous observations and reiterates its hope that the Government will soon be in a position to provide the other information requested concerning the submission to the competent authorities, within the meaning of article 19, paragraphs 5 and 6, of the ILO Constitution, of all Conventions, Recommendations and Protocols adopted at 11 sessions of the Conference held between 1996 and 2006 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Madagascar

The Committee recalls that in its 2005 observation it noted a communication dated 31 May 2005 in which the Ministry of the Public Service, Labour and Social Legislation requested the General Secretariat of the Government to forward to Parliament the 53 instruments adopted by the Conference. The Committee notes that the Government has not provided further information in this respect. The Committee requests the Government to provide specific information

concerning the submission to the National Assembly of the instruments which were adopted by the Conference between 1970 and 2006 but have not yet been submitted.

Malawi

The Committee notes with interest that, on 26 July 2006, the Government brought to the attention of the Clerk of Parliament the list of international labour Conventions, Recommendations and Protocols adopted by the Conference between June 1995 and February 2006. It notes with interest that the Tripartite Labour Advisory Council will meet in the near future to look at the list and decide which instruments are applicable to Malawi for possible ratification. The Committee hopes that the Government will also report soon on the content of the decision taken by the social partners and the National Assembly on the instruments which were submitted to them (point IV of the questionnaire at the end of the Memorandum).

Mali

The Committee notes with interest that the Conventions and Recommendations adopted by the Conference at several sessions held between 1992 and 2003 were submitted, on 6 June 2006, to the National Assembly. The Committee welcomes the progress achieved in this respect and hopes that the Government will be able to send the relevant information concerning the submission to the National Assembly of the Protocols of 1996 and 2002, as well as of the instruments adopted at the 86th, 92nd, 94th and 95th Sessions of the Conference.

Mongolia

The Committee asks the Government to indicate if the instruments adopted by the Conference at ten sessions held between 1995 and 2006 (82nd, 83rd, 84th, 85th, 86th, 90th, 91st, 92nd, 94th and 95th Sessions) were submitted to the State Great Khural.

Mozambique

The Committee recalls the detailed information supplied by the Government in September and December 2005, according to which priority has been given to the ratification of fundamental Conventions and the revision of the Labour Law. Efforts are being made to submit the pending instruments to the competent authorities. It asks the Government to provide the requested information concerning the submission to the Assembly of the Republic of the instruments adopted by the Conference at 11 sessions held between 1996 and 2006 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Nepal

The Committee hopes that the Government will be soon in a position to report on the submission to the House of Representative instruments adopted by the Conference at its 82nd, 84th, 86th, 88th, 90th, 91st, 92nd, 94th and 95th Sessions. It refers to its 2006 observation on the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and asks the Government to report on the prior tripartite consultations that should take place with social partners on the proposals to be made to the House of Representatives before submitting the instruments adopted by the Conference.

Niger

The Committee refers to its 2005 observation and requests the Government to supply the required information on the submission to the National Assembly of the instruments adopted by the Conference at ten sessions held between 1996 and 2006 (83rd, 84th, 85th, 86th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Pakistan

The Committee refers to its previous observations and trusts that the Government will report on the measures taken to ensure full compliance with the obligation to submit and will be able to indicate in the near future that the instruments adopted by the Conference since 1994 at its 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions have been submitted to Parliament (*Majlis-e-Shoora*).

Papua New Guinea

In its 2005 direct request, the Committee noted the preparatory work done by the Department of Labour and Industrial Relations for the National Executive Council (NEC) in relation with Convention No. 142 and Recommendation

No. 195 (92nd Session). It hopes that the Government will soon be able to announce that the instruments adopted by the Conference at its 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions have been submitted to the National Parliament.

Paraguay

1. The Committee notes with regret that the Government has not provided information on the submission to the National Congress of the instruments adopted at nine sessions held between 1997 and 2006 (85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

2. The Committee recalls its previous comments and asks the Government to send copies or provide information on the content of the document or documents whereby the instruments adopted at the 82nd, 83rd and 84th Sessions of the Conference were submitted to the National Congress, together with the texts of any proposals that may have been made. Please state whether the National Congress has reached a decision on the abovementioned instruments and indicate the representative employers' and workers' organizations to which the information sent to the Director-General has been forwarded.

Peru

The Committee notes with interest that the ratification of Convention No. 178 was registered on 4 October 2006 and requests the Government to provide information on the submission to the Congress of the Republic of the other instruments adopted at the 84th Session of the Conference and at the sessions of the Conference that took place between 2000 and 2006 (88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Rwanda

The Committee recalls the information provided by the Government in September 2005 indicating that the reports for the submission to the competent authorities of the Conventions and Recommendations adopted by the Conference from the 80th to the 91st Sessions were with the Council of Ministers, which had to examine them, adopt them and transmit them to the National Assembly. The Committee hopes that the Government will announce that the Conventions, Recommendations and Protocols adopted at the 80th, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions of the Conference have in fact been submitted to the National Assembly.

Saint Kitts and Nevis

The Committee refers to its previous comments and asks the Government to provide the required information about the date on which the instruments were submitted to the National Assembly and the proposals made by the Government on the measures which might be taken with regard to the instruments adopted by the Conference at ten sessions of the Conference held between 1996 and 2006 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Saint Lucia

The Committee notes with regret that the Government has not replied to its previous comments. It recalls that, in accordance with article 19, paragraphs 5 and 6, of the Constitution of the Organization, Saint Lucia, as a Member of the Organization, has the obligation to submit to Parliament all the remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2006 (66th, 67th (Conventions Nos. 155 and 156 and Recommendations Nos. 164 and 165), 68th (Convention No. 157 and Protocol of 1982), 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions). The Committee again requests the Government to take the necessary measures to ensure full compliance with the constitutional obligation to submit.

Saint Vincent and the Grenadines

In reply to the Committee's previous comments, the Government indicates in a communication received in September 2006, that it has fulfilled its obligation to submit to the competent authorities all of the instruments adopted by the Conference. Through the Minister of Labour, the Department of Labour has submitted to the Cabinet a list of all the Conventions and Recommendations adopted by the Conference from October 1996 to June 2004, along with its recommendations for ratification. The submission to the Cabinet was made on 11 September 2006 and the representative organizations of employers and workers were duly notified. The Committee notes that, under the 1979 Constitution of Saint Vincent and the Grenadines, the Cabinet is the executive authority which has the responsibility for making final decisions on ratification and for determining any matter that is brought before Parliament for legislative action. The Committee refers once again to its previous comments and asks the Government to fulfil its remaining obligations under article 19, paragraphs 5 and 6, of the ILO Constitution by also submitting to the House of Assembly the instruments

(Conventions, Recommendations and Protocols) adopted by the Conference at 11 sessions held from October 1996 to June 2006.

Sao Tome and Principe

The Committee recalls that the Government has not provided the required information on the submission to the competent authorities of 39 instruments adopted by the Conference between 1990 and 2006 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 90th, 91st, 92nd, 94th and 95th Sessions). The Committee urges the Government to make every effort to fulfil the constitutional obligation of submission and recalls that the Office is available to provide the necessary technical assistance to give effect to this essential constitutional obligation.

Senegal

The Committee recalls that the Conventions and Recommendations adopted by the Conference at its 79th, 80th, 81st, 82nd, 83rd, 85th, 86th and 88th Sessions were examined by the Council of Ministers at its meeting on 26 June 2005. The Committee hopes that the Government will announce that the instruments adopted by the Conference at 15 sessions that took place between 1992 and 2006 have in fact been submitted to the National Assembly.

Sierra Leone

In a communication received in June 2005, the Government requested assistance from the Office on submission issues, so as to overcome material and technical difficulties that have been reported as the cause for delay in submission. The Committee trusts that the competent units of the Office will provide the requested assistance and the Government will soon be in a position to report on the submission to Parliament of the instruments adopted by the Conference since October 1976 (Convention No. 146 and Recommendation No. 154, adopted at the 62nd Session) and the instruments adopted between 1977 and 2006.

Solomon Islands

The Committee recalls that, after an ILO mission in October 2005, the Government has been able to prepare a report to Cabinet on pending issues concerning mainly the obligation to submit. The Committee urges the Government, in the same way as the Conference Committee, to make every effort to comply with the constitutional obligation to submit to the National Legislature the instruments adopted by the Conference between 1984 and 2006.

Somalia

The Committee trusts that, when the national circumstances permit, the Government will provide information on the submission to the competent authorities with regard to the instruments adopted by the Conference since October 1976.

Sudan

The Committee notes the information provided by the Government in November 2006 indicating that Convention No. 184 was sent to the Council of Ministers for ratification. It refers to its previous comments and reiterates its hope that, when national circumstances so permit, the Government will also announce that the instruments adopted by the Conference between 1994 and 2006 were submitted to the National Assembly.

Swaziland

The Committee refers to its 2005 observation and hopes that the Government will soon indicate that the Protocol of 1995 to the Labour Inspection Convention, 1947, adopted at the 82nd Session, and the instruments adopted at the 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions of the Conference have also been submitted to Parliament.

Syrian Arab Republic

In relation to its previous comments, the Committee notes with interest the information provided by the Government in October 2006 indicating that the Private Employment Agencies Convention, 1997 (No. 181), is being examined in the national committee for consultation and social dialogue with a view to its submission to the competent authorities for ratification. The Committee recalls that 38 instruments adopted by the Conference are still pending submission to the People's Council (*Majlis al Chaab*). It once again hopes that the Government will soon be able to indicate that the instruments adopted by the Conference at its 66th and 69th Sessions (Recommendations Nos. 167 and 168) and at its 70th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 90th, 91st, 92nd, 94th and 95th Sessions have been submitted to the People's Council (*Majlis al Chaab*).

Tajikistan

The Committee notes with regret that the information on submission to Parliament required by article 19 of the ILO Constitution for the instruments adopted by the Conference at nine sessions of the Conference held between October 1996 and June 2006 (84th, 85th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions) has not been received.

United Republic of Tanzania

The Committee invites the Government to report on the submission to the National Assembly of the instruments adopted at its 94th and 95th Sessions. It recalls that, in its previous observation, it invited the Government to report on the submission of the following Recommendations and Protocols: the Older Workers Recommendation, 1980 (No. 162); the Protocol of 1982 to the Plantations Convention, 1958; the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948; the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976; the Promotion of Cooperatives Recommendation, 2002 (No. 193); the List of Occupational Diseases Recommendation, 2002 (No. 194); and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, adopted at the 66th, 68th, 77th, 84th and 90th Sessions of Conference.

The former Yugoslav Republic of Macedonia

The Committee notes with regret that the Government has not sent the information concerning the submission to the competent authorities of instruments adopted by the Conference at 11 sessions held between 1996 and 2006 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Turkmenistan

1. The Committee notes with regret that the Government has not provided information on the submission to the competent authorities of the instruments adopted by the Conference at 14 sessions held by the Conference between 1994 and 2006.

2. The Committee notes that Turkmenistan has been a Member of the Organization since 24 September 1993. It recalls that, under article 19 of the Constitution of the International Labour Organization, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies “for the enactment of legislation or other action”. The Governing Body of the International Labour Office adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars on this subject. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and any proposals made by the Government on the measures to be taken with regard to the instruments that have been submitted.

3. The Committee, in the same way as the Conference Committee, urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Uganda

In reply to the Committee’s previous observations, the Government indicates in a communication received in May 2006 that a Cabinet information paper was prepared on the Conventions and Recommendations adopted by the Conference in 1997, 1998, 2000 and 2001. It further indicates that it will ensure the submission of the pending instruments to the competent authority. The Committee hopes that the Government will soon be able to provide the required information on the submission to Parliament of the instruments adopted by the Conference at 13 sessions held between 1994 and 2006 (81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Uzbekistan

1. The Committee notes with regret that the Government has not communicated information on the submission to the competent authorities of the instruments adopted by the Conference during 14 sessions held between 1993 and 2006.

2. The Committee notes that Uzbekistan has been a Member of the Organization since 31 July 1992. It recalls that, under article 19 of the Constitution of the International Labour Organization, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies “for the enactment of legislation or other action”. The Governing Body of the International Labour Office has adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on

which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.

3. The Committee urges the Government, in the same way as the Conference Committee, to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Bolivarian Republic of Venezuela

The Committee notes the communication provided by the Government through which the Ministry of Labour requested the Ministry of Foreign Affairs, in February 2006, to take the necessary steps for the submission to the National Assembly of the remaining instruments. The Committee refers to its 2006 observation on the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and hopes that the Government will soon be in a position to announce that it has submitted to the National Assembly all the remaining instruments awaiting submission. The Committee recalls that 39 instruments await submission to the National Assembly adopted at the 79th and 81st Sessions (1992 and 1994) and between 1996 and 2006, as well as certain instruments adopted earlier (74th Session, 1987: Conventions Nos. 163, 164, 165 and 166, and Recommendation No. 174; 75th Session, 1988: Convention No. 68 and Recommendation No. 176; 77th Session, 1990: Convention No. 171 and Recommendation No. 178, the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948; 78th Session, 1991: Convention No. 172; 82nd Session, 1995: Protocol of 1995 to the Labour Inspection Convention, 1947).

Zambia

The Committee refers to its previous comments and hopes that the Government will soon be in a position to provide the required information on the submission to the National Assembly of the instruments adopted by the Conference at 11 sessions held between 1996 and 2006 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th and 95th Sessions).

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: *Albania, Angola, Austria, Bahrain, Belgium, Canada, Cuba, Cyprus, Ecuador, Eritrea, Ethiopia, Ireland, Jamaica, Jordan, Kiribati, Republic of Korea, Kuwait, Latvia, Lesotho, Malta, Mauritania, Mexico, Republic of Moldova, Morocco, Namibia, Oman, Panama, Russian Federation, Serbia, Seychelles, Singapore, Spain, Sri Lanka, Suriname, Sweden, Thailand, Timor-Leste, Togo, Ukraine, Uruguay, Vanuatu, Yemen.*



Appendices

**Appendix I. Table of reports received on ratified Conventions as of 8 December 2006
(articles 22 and 35 of the Constitution)**

Article 22 of the Constitution of the International Labour Organization provides that “each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request”. Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 22, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 204th Session (November 1977), the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 22 and 35 of the Constitution:

- (a) the practice of tabular classification of reports, without summary of their contents, which has been followed for several years in respect of reports subsequent to first reports after ratification, should be applied to all reports, including first reports;
- (b) the Director-General should make available, for consultation at the Conference, the original texts of all reports received on ratified Conventions; in addition, photocopies of the reports should be supplied on request to members of delegations.

At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification.

Reports received under articles 22 and 35 of the Constitution appear in simplified form in a table annexed to the report of the Committee of Experts on the Application of Conventions and Recommendations; first reports are indicated in parentheses.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

Afghanistan**14 reports requested**

· All reports received: Conventions Nos. 13, 14, 41, 45, 95, 100, 105, 106, 111, 137, 139, 140, 141, 142

Albania**25 reports requested**

· 6 reports received: Conventions Nos. 6, 11, 77, 78, 95, (150)
 · 19 reports not received: Conventions Nos. 16, 29, (81), 100, 105, 111, (131), (135), 138, (141), (155), (171), (174), (175), (176), 178, 181, 182, (183)

Algeria**18 reports requested**

· 16 reports received: Conventions Nos. 6, 11, 29, 69, 77, 78, 87, 94, 95, 99, 100, 105, 108, 111, 120, 138
 · 2 reports not received: Conventions Nos. 81, 182

Angola**11 reports requested**

· All reports received: Conventions Nos. 6, 19, 26, 29, 81, 87, 88, 100, 105, 138, 182

Antigua and Barbuda**26 reports requested**

· 11 reports received: Conventions Nos. 11, 14, 17, 29, 81, 87, 98, 101, 105, 108, 138
 · 15 reports not received: Conventions Nos. 94, (100), 111, (122), (131), (135), (142), (144), (150), (151), (154), (155), (158), (161), (182)

Argentina**17 reports requested**

· All reports received: Conventions Nos. 11, 26, 29, 77, 78, 79, 81, 90, 95, 105, 124, 129, 138, (150), 156, 169, 182

Armenia**14 reports requested**

· 1 report received: Convention No. (122)
 · 13 reports not received: Conventions Nos. (17), (18), (29), (81), (95), (98), (100), (105), (111), (135), (151), (174), (176)

Australia**15 reports requested**

· 13 reports received: Conventions Nos. 10, 11, 29, 81, 99, 105, 112, 123, 131, (155), 156, 158, 173
 · 2 reports not received: Conventions Nos. 87, 98

*Norfolk Island***7 reports requested**

· All reports received: Conventions Nos. 10, 11, 29, 105, 112, 131, 156

Austria**15 reports requested**

· All reports received: Conventions Nos. 6, 11, 26, 29, 81, 94, 95, 99, 105, 124, 138, 141, 173, 182, (183)

Azerbaijan**19 reports requested**

· All reports received: Conventions Nos. 11, 23, 29, 77, 78, 79, 81, 90, 95, 105, 113, 119, 124, 126, 129, 131, 135, 138, (182)

Bahamas**14 reports requested**

· 10 reports received: Conventions Nos. 11, 22, 94, 95, 100, 105, 111, 144, (147), 182
 · 4 reports not received: Conventions Nos. 26, 29, 81, 138

Bahrain**4 reports requested**

· All reports received: Conventions Nos. 29, 81, 105, 182

Bangladesh**8 reports requested**

· All reports received: Conventions Nos. 11, 29, 59, 81, 90, 98, 105, 182

Barbados**21 reports requested**

· 11 reports received: Conventions Nos. 22, 74, 87, 98, 100, 108, 111, 115, 122, 144, 182
 · 10 reports not received: Conventions Nos. 11, 26, 29, 81, 90, 94, 95, 105, 138, 147

Belarus**17 reports requested**

· All reports received: Conventions Nos. 11, 26, 29, 77, 78, 79, 81, 87, 90, 95, 98, 105, 124, 138, 144, 182, (183)

Belgium**26 reports requested**

· All reports received: Conventions Nos. 6, 8, 11, 12, 19, 26, 29, 77, 81, 94, 95, 99, 102, 105, 113, 114, 121, 124, 125, 126, 129, 138, 141, (174), (181), 182

Belize**24 reports requested**

· No reports received: Conventions Nos. 11, (23), 26, 29, 81, 87, 88, 94, 95, 98, 99, 100, 105, 111, 115, 138, 141, 144, 150, 151, 154, 155, 156, 182

Benin**10 reports requested**

· All reports received: Conventions Nos. 6, 11, 26, 29, 81, 95, 105, 138, 144, 182

Bolivia**15 reports requested**

· No reports received: Conventions Nos. 1, 30, 77, 78, 81, 90, 95, 105, 123, 124, 129, 131, 138, 156, 182

Bosnia and Herzegovina**49 reports requested**

· 7 reports received: Conventions Nos. 81, 88, 98, 100, 111, 122, 158
 · 42 reports not received: Conventions Nos. 9, 11, 12, 13, 16, 19, 22, 23, 27, 29, 32, 53, 69, 73, 74, 87, 90, 91, 92, 97, 102, (105), 113, 114, 119, 121, 126, 129, 131, 135, 136, 138, 139, 142, 143, 148, 155, 156, 159, 161, 162, (182)

Botswana**12 reports requested**

· 5 reports received: Conventions Nos. 87, 98, 100, 138, 144
 · 7 reports not received: Conventions Nos. 29, 95, 105, 111, 173, 176, 182

Brazil**15 reports requested**

· All reports received: Conventions Nos. 6, 11, 29, 81, 94, 95, 105, 113, 124, 125, 126, 131, 138, 141, 182

Bulgaria**18 reports requested**

· All reports received: Conventions Nos. 6, 11, 26, 29, 77, 78, 79, 81, 94, 95, 98, 105, 113, 124, 138, (163), (173), 182

Burkina Faso**21 reports requested**

· 11 reports received: Conventions Nos. 6, 13, 81, 87, 95, 98, 100, 111, 144, 159, 161
 · 10 reports not received: Conventions Nos. 11, 29, 105, 129, 131, 138, 141, 170, 173, 182

Burundi**17 reports requested**

· All reports received: Conventions Nos. 11, 26, 29, 62, 81, 89, 90, 94, 98, 100, 101, 105, 111, 135, 138, 144, (182)

Cambodia**11 reports requested**

· No reports received: Conventions Nos. 4, 6, 13, 29, 87, 98, 100, 105, 111, 122, 138

Cameroon**16 reports requested**

· All reports received: Conventions Nos. 10, 11, 29, 33, 77, 78, 81, 90, 94, 95, 105, 123, 131, 138, 158, 182

Canada**4 reports requested**

· All reports received: Conventions Nos. 26, 105, 162, 182

Cape Verde**4 reports requested**

· No reports received: Conventions Nos. 29, 81, 105, 182

Central African Republic**14 reports requested**

· 10 reports received: Conventions Nos. 11, 18, 26, 29, 81, 95, 99, 105, 117, 118
 · 4 reports not received: Conventions Nos. 6, 94, 138, 182

Chad**14 reports requested**

· All reports received: Conventions Nos. 6, 11, 13, 26, 29, 81, 95, 98, 100, 105, 111, 144, 173, 182

Chile	22 reports requested
· All reports received: Conventions Nos. 2, 6, 11, 13, 29, 87, 98, 100, 105, 111, 121, 122, 127, 131, 136, 138, 144, 156, 159, 161, 162, 182	
China	4 reports requested
· All reports received: Conventions Nos. 11, 26, 138, 182	
Hong Kong Special Administrative Region	9 reports requested
· All reports received: Conventions Nos. 11, 29, 81, 90, 105, 124, 138, 141, 182	
Macau Special Administrative Region	9 reports requested
· All reports received: Conventions Nos. 6, (22), (23), 26, 29, 81, 105, 138, 182	
Colombia	12 reports requested
· All reports received: Conventions Nos. 6, 11, 26, 29, 81, 95, 99, 105, 111, 129, 138, 169	
Comoros	24 reports requested
· 3 reports received: Conventions Nos. 13, 95, 98	
· 21 reports not received: Conventions Nos. 5, 6, 10, 11, 12, 26, 29, 52, 77, 78, 81, 87, 89, 99, 100, 105, 106, (111), 122, (138), (182)	
Congo	18 reports requested
· No reports received: Conventions Nos. 6, 11, 13, 26, 29, 81, 87, 95, 98, 100, 105, 111, 119, 138, 144, 149, 152, 182	
Costa Rica	14 reports requested
· All reports received: Conventions Nos. 11, 29, 81, 90, 94, 95, 105, 113, 114, 129, 131, 138, 141, 182	
Côte d'Ivoire	22 reports requested
· 20 reports received: Conventions Nos. 3, 6, 11, 13, 26, 29, 45, 81, 87, 95, 96, 98, 99, 100, 105, 111, 129, 136, 144, 182	
· 2 reports not received: Conventions Nos. (138), 159	
Croatia	11 reports requested
· All reports received: Conventions Nos. 11, 29, 81, 90, 105, 113, 129, 138, 156, 162, 182	
Cuba	15 reports requested
· All reports received: Conventions Nos. 11, 29, 77, 78, 79, 81, 90, 94, 95, 105, 113, 131, 138, 141, (183)	
Cyprus	20 reports requested
· 13 reports received: Conventions Nos. 11, 19, 29, 81, 90, 94, 95, 121, 123, 124, 128, 141, 158	
· 7 reports not received: Conventions Nos. 88, 102, 105, 114, 122, 138, 182	
Czech Republic	22 reports requested
· All reports received: Conventions Nos. 5, 10, 11, 12, 17, 19, 26, 29, 42, 77, 78, 90, 95, 99, 102, 105, 123, 124, 128, 130, 155, 182	
Democratic Republic of the Congo	25 reports requested
· 11 reports received: Conventions Nos. 14, 29, 81, 87, 88, 95, 98, 100, 102, 111, 150	
· 14 reports not received: Conventions Nos. 11, 26, 62, 89, 94, 105, 117, 119, 120, 121, 138, 144, 158, 182	
Denmark	23 reports requested
· 21 reports received: Conventions Nos. 6, 11, 12, 19, 29, 42, 87, 98, 102, 105, 118, 126, 129, 130, (133), 138, 141, 142, 155, (180), 182	
· 2 reports not received: Conventions Nos. 81, 94	
Faeroe Islands	8 reports requested
· No reports received: Conventions Nos. 5, 6, 11, 29, 87, 98, 105, 126	

*Greenland***6 reports requested**

- 2 reports received: Conventions Nos. 5, 6
- 4 reports not received: Conventions Nos. 11, 29, 105, 126

Djibouti**29 reports requested**

- No reports received: Conventions Nos. 6, 9, 11, 12, 13, 14, 16, 17, 18, 26, 29, 44, 45, 52, 77, 78, 81, 89, 94, 95, 98, 99, 101, 105, 115, 120, 124, 125, 126

Dominica**19 reports requested**

- No reports received: Conventions Nos. 11, 16, 26, 29, 81, 87, 94, 95, 98, 100, 105, 108, (135), 138, (144), (147), (150), (169), (182)

Dominican Republic**11 reports requested**

- All reports received: Conventions Nos. 26, 29, 77, 79, 81, 90, 95, 105, 138, 171, 182

Ecuador**16 reports requested**

- All reports received: Conventions Nos. 11, 29, 77, 78, 81, 95, 105, 112, 113, 114, 123, 124, 131, 138, 141, 182

Egypt**11 reports requested**

- All reports received: Conventions Nos. 11, 29, 81, 94, 95, 105, 129, 131, 138, (166), 182

El Salvador**12 reports requested**

- All reports received: Conventions Nos. 29, 77, 78, 81, 99, 105, 129, 131, 138, 141, 156, 182

Equatorial Guinea**8 reports requested**

- No reports received: Conventions Nos. 29, (68), (92), 100, 105, 111, 138, 182

Eritrea**5 reports requested**

- No reports received: Conventions Nos. 29, 100, 105, 111, 138

Estonia**9 reports requested**

- No reports received: Conventions Nos. 5, 6, 10, 11, 29, 105, (129), (147), 182

Ethiopia**9 reports requested**

- 6 reports received: Conventions Nos. 29, 88, 98, 138, 158, 182
- 3 reports not received: Conventions Nos. 11, 105, 156

Fiji**8 reports requested**

- 7 reports received: Conventions Nos. 11, 26, 29, 105, 138, 169, 182
- 1 report not received: Convention No. (159)

Finland**15 reports requested**

- All reports received: Conventions Nos. 11, 13, 29, 81, 94, 105, 120, 124, 129, 138, 141, 156, 158, 173, 182

France**43 reports requested**

- 27 reports received: Conventions Nos. 11, 12, 17, 19, 24, 29, 35, 36, 37, 38, 42, 62, 77, 78, 88, 90, 95, 96, 105, 118, 124, 129, 131, 138, 141, 148, 182
- 16 reports not received: Conventions Nos. 81, 94, 98, 102, 113, 114, 125, 126, 156, 158, (163), (164), (166), (178), (179), (185)

*French Guiana***22 reports requested**

- 9 reports received: Conventions Nos. 10, 62, 94, 100, 111, 120, 129, 131, 141
- 13 reports not received: Conventions Nos. 5, 6, 29, 81, 95, 105, 112, 113, 114, 123, 124, 125, 126

*French Polynesia***20 reports requested**

- All reports received: Conventions Nos. 5, 6, 10, 11, 29, 33, 77, 78, 81, 94, 95, 105, 115, 123, 124, 125, 126, 129, 131, 141

*French Southern and Antarctic Territories***1 report requested**

- No reports received: Convention No. 87

*Guadeloupe***30 reports requested**

- 25 reports received: Conventions Nos. 5, 6, 10, 11, 13, 29, 45, 62, 81, 87, 94, 95, 98, 100, 105, 111, 115, 120, 123, 124, 129, 131, 136, 141, 144
- 5 reports not received: Conventions Nos. 112, 113, 114, 125, 126

*Martinique***19 reports requested**

- 2 reports received: Conventions Nos. 11, 141
- 17 reports not received: Conventions Nos. 5, 6, 10, 29, 81, 94, 95, 105, 112, 113, 114, 123, 124, 125, 126, 129, 131

*New Caledonia***19 reports requested**

- All reports received: Conventions Nos. 5, 6, 10, 11, 29, 33, 77, 78, 81, 94, 95, 105, 123, 124, 125, 126, 129, 131, 141

*Réunion***19 reports requested**

- 14 reports received: Conventions Nos. 5, 6, 10, 11, 29, 81, 94, 95, 105, 123, 124, 129, 131, 141
- 5 reports not received: Conventions Nos. 112, 113, 114, 125, 126

*St. Pierre and Miquelon***19 reports requested**

- 17 reports received: Conventions Nos. 5, 6, 10, 11, 29, 33, 77, 78, 81, 94, 95, 105, 123, 124, 129, 131, 141
- 2 reports not received: Conventions Nos. 125, 126

Gabon**16 reports requested**

-
- All reports received: Conventions Nos. 3, 5, 6, 10, 11, 26, 29, 33, 81, 95, 99, 105, 123, 124, 158, 182

Gambia**8 reports requested**

-
- 4 reports received: Conventions Nos. 87, 98, 100, 111
 - 4 reports not received: Conventions Nos. (29), (105), (138), (182)

Georgia**6 reports requested**

-
- 5 reports received: Conventions Nos. 29, 105, 138, 181, 182
 - 1 report not received: Convention No. (163)

Germany**21 reports requested**

-
- All reports received: Conventions Nos. 11, 12, 19, 26, 29, 81, 99, 102, 105, 113, 114, 118, 121, 125, 126, 128, 129, 130, 138, 141, 182

Ghana**23 reports requested**

-
- 21 reports received: Conventions Nos. 11, 16, 23, 26, 29, 45, 58, 59, 81, 87, 88, 90, 92, 94, 100, 105, 111, 119, 120, 148, 182
 - 2 reports not received: Conventions Nos. 96, 115

Greece**18 reports requested**

-
- 13 reports received: Conventions Nos. 11, 17, 19, 29, 42, 77, 78, 81, 90, 105, 126, 138, 141
 - 5 reports not received: Conventions Nos. 95, 102, 124, 156, 182

Grenada**19 reports requested**

-
- 14 reports received: Conventions Nos. 8, 14, 16, 29, 81, 87, 98, 100, 105, 108, (111), (138), 144, (182)
 - 5 reports not received: Conventions Nos. 11, 26, 94, 95, 99

Guatemala**23 reports requested**

-
- All reports received: Conventions Nos. 11, 29, 59, 77, 78, 79, 81, 90, 94, 95, 98, 105, 112, 113, 114, 124, 129, 131, 138, 141, 156, 169, 182

Guinea**30 reports requested**

-
- 15 reports received: Conventions Nos. 26, 29, 62, 81, 94, 105, 114, 120, 133, (138), 139, 140, 150, 159, (182)
 - 15 reports not received: Conventions Nos. 11, 45, 90, 95, 99, 113, 115, 118, 119, 121, 122, 134, 136, 148, 156

Guinea-Bissau**5 reports requested**

-
- All reports received: Conventions Nos. 6, 26, 29, 81, 105

Guyana**26 reports requested**

· All reports received: Conventions Nos. 2, 11, 29, 45, 81, 87, 94, 95, 98, 100, 105, 108, 111, 115, 129, 131, 135, 136, 138, 139, 141, 144, 150, 151, 166, 182

Haiti**12 reports requested**

· No reports received: Conventions Nos. 1, 5, 19, 29, 30, 45, 77, 78, 81, 90, 105, 107

Honduras**7 reports requested**

· All reports received: Conventions Nos. 29, 78, 81, 95, 105, 138, 182

Hungary**15 reports requested**

· 14 reports received: Conventions Nos. 6, 26, 29, 77, 78, 81, 95, 99, 105, 124, 129, 138, 141, 182
 · 1 report not received: Convention No. (185)

Iceland**6 reports requested**

· All reports received: Conventions Nos. 11, 29, 105, 138, 156, 182

India**10 reports requested**

· All reports received: Conventions Nos. 5, 11, 26, 29, 81, 90, 105, 111, 123, 141

Indonesia**5 reports requested**

· 2 reports received: Conventions Nos. 29, 105
 · 3 reports not received: Conventions Nos. (81), 138, 182

Islamic Republic of Iran**6 reports requested**

· No reports received: Conventions Nos. 29, 95, 100, 105, 122, 182

Iraq**52 reports requested**

· No reports received: Conventions Nos. 1, 8, 11, 13, 14, 16, 19, 22, 23, 29, 30, 77, 78, 81, 88, 89, 92, 94, 95, 98, 100, 105, 106, 107, 108, 111, 115, 118, 119, 120, 122, 131, 132, 135, 136, 137, 138, 139, 140, 142, 144, 145, 146, 147, 148, 149, 150, 152, 153, 167, (172), (182)

Ireland**15 reports requested**

· All reports received: Conventions Nos. 6, 11, 12, 19, 26, 29, 81, 99, 102, 105, 118, 121, 124, 138, 182

Israel**11 reports requested**

· All reports received: Conventions Nos. 29, 77, 78, 79, 81, 90, 94, 95, 105, 138, 141

Italy**23 reports requested**

· All reports received: Conventions Nos. 11, 12, 19, 26, 29, 42, 77, 78, 79, 81, 90, 94, 95, 99, 102, 105, 114, 118, 124, 129, 138, 141, 182

Jamaica**9 reports requested**

· 7 reports received: Conventions Nos. 26, 29, 81, 105, 111, 138, 182
 · 2 reports not received: Conventions Nos. 11, 94

Japan**6 reports requested**

· All reports received: Conventions Nos. 29, 81, 131, 138, 156, 182

Jordan**8 reports requested**

· No reports received: Conventions Nos. 29, 81, 105, 124, 138, (147), 182, (185)

Kazakhstan**16 reports requested**

· 15 reports received: Conventions Nos. 29, 81, 87, 88, 98, 105, 111, 122, 129, 135, 138, 144, 148, 155, (182)
 · 1 report not received: Convention No. 100

Kenya	12 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 19, 98, 100, 111, 118, 132, 140, 141, 144	
Kiribati	2 reports requested
· No reports received: Conventions Nos. 87, 98	
Republic of Korea	9 reports requested
· 3 reports received: Conventions Nos. 81, 150, 182	
· 6 reports not received: Conventions Nos. 19, 100, 111, 122, 144, 156	
Kuwait	3 reports requested
· All reports received: Conventions Nos. 87, 111, 144	
Kyrgyzstan	45 reports requested
· No reports received: Conventions Nos. 11, 14, 16, (17), 23, 27, 29, 32, 45, 47, 52, 69, 73, 77, 78, 79, 87, 90, 92, 98, 100, 103, (105), 106, 108, 111, 113, 115, 119, 120, 122, 124, 126, (133), 134, 138, 142, 147, 148, 149, (150), (154), 160, (182), (184)	
Lao People's Democratic Republic	2 reports requested
· All reports received: Conventions Nos. 13, 29	
Latvia	13 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 18, 19, 24, 87, 98, 100, 111, 122, 144, 158	
Lebanon	7 reports requested
· All reports received: Conventions Nos. 17, 19, 98, 100, 111, 122, (152)	
Lesotho	8 reports requested
· 3 reports received: Conventions Nos. 87, 98, 144	
· 5 reports not received: Conventions Nos. 11, 19, 100, 111, 158	
Liberia	21 reports requested
· No reports received: Conventions Nos. 22, 23, 29, 53, 55, 58, (81), 87, 92, 98, 105, 108, 111, 112, 113, 114, (133), (144), 147, (150), (182)	
Libyan Arab Jamahiriya	18 reports requested
· 17 reports received: Conventions Nos. 14, 53, 81, 87, 89, 95, 98, 100, 102, 103, 105, 111, 118, 121, 122, 128, 130	
· 1 report not received: Convention No. 96	
Lithuania	13 reports requested
· All reports received: Conventions Nos. 11, 19, 24, 87, 88, 98, 100, 105, 111, (122), 144, (156), (181)	
Luxembourg	16 reports requested
· All reports received: Conventions Nos. 11, 12, 19, 55, 56, 81, 87, 98, 100, 102, 111, 121, 130, 135, 158, (172)	
Madagascar	14 reports requested
· All reports received: Conventions Nos. 11, 12, 13, 19, 29, 81, 87, 98, 100, 111, 118, 122, 138, 144	
Malawi	9 reports requested
· No reports received: Conventions Nos. 11, 12, 19, 87, 98, 100, 111, 144, 158	
Malaysia	3 reports requested
· All reports received: Conventions Nos. 98, 100, 144	
Peninsular Malaysia	4 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 19	

Sarawak

3 reports requested

- All reports received: Conventions Nos. 11, 12, 19

Mali

9 reports requested

- 7 reports received: Conventions Nos. 11, 17, 18, 19, 87, 98, 141
- 2 reports not received: Conventions Nos. 100, 111

Malta

23 reports requested

- 14 reports received: Conventions Nos. 8, 16, 22, 29, 53, 73, 74, 81, 105, 108, 129, 138, 180, 182
- 9 reports not received: Conventions Nos. 11, 12, 19, 42, 87, 98, 100, 111, 141

Mauritania

14 reports requested

- 13 reports received: Conventions Nos. 11, 17, 18, 19, 87, 98, 100, 102, 111, 112, 114, 118, 122
- 1 report not received: Convention No. 105

Mauritius

13 reports requested

- All reports received: Conventions Nos. 11, 12, 17, 19, 42, (88), 98, 100, 111, 144, (150), (156), (159)

Mexico

13 reports requested

- All reports received: Conventions Nos. 11, 12, 17, 19, 42, 87, 100, 102, 111, 112, 118, 141, 144

Republic of Moldova

13 reports requested

- All reports received: Conventions Nos. 11, 29, 87, 98, 100, 105, 108, 111, (119), 122, (141), 144, 158

Mongolia

6 reports requested

- 2 reports received: Conventions Nos. 87, 144
- 4 reports not received: Conventions Nos. 98, 100, 111, 122

Morocco

12 reports requested

- All reports received: Conventions Nos. 11, 12, 17, 19, 22, 42, 98, 100, 111, 122, 158, 179

Mozambique

9 reports requested

- All reports received: Conventions Nos. 11, 17, 18, 87, 98, 100, 111, 122, 144

Myanmar

6 reports requested

- 3 reports received: Conventions Nos. 17, 26, 87
- 3 reports not received: Conventions Nos. 11, 19, 42

Namibia

10 reports requested

- All reports received: Conventions Nos. 29, 87, 98, 105, 111, 138, 144, 150, 158, 182

Nepal

4 reports requested

- All reports received: Conventions Nos. 98, 100, 111, 144

Netherlands

19 reports requested

- 18 reports received: Conventions Nos. 11, 12, 19, 24, 25, 87, 98, 100, 102, 111, 113, 114, 121, 122, 126, 141, 144, 156
- 1 report not received: Convention No. 128

Aruba

26 reports requested

- 25 reports received: Conventions Nos. 8, 9, 11, 12, 22, 23, 25, 29, 69, 74, 81, 87, 88, 105, 113, 114, 121, 122, 126, 135, 138, 144, 145, 146, 147
- 1 report not received: Convention No. 118

Netherlands Antilles

18 reports requested

- 11 reports received: Conventions Nos. 8, 9, 22, 23, 29, 58, 69, 74, 81, 87, 105
- 7 reports not received: Conventions Nos. 11, 12, 17, 25, 42, 118, 122

New Zealand	10 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 42, 84, 98, 100, 111, 122, 144	
<i>Tokelau</i>	2 reports requested
· All reports received: Conventions Nos. 100, 111	
Nicaragua	14 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 18, 19, 24, 25, 87, 98, 100, 111, 122, 141, 144	
Niger	10 reports requested
· All reports received: Conventions Nos. 11, 18, 87, 98, 100, 102, 111, 117, 156, 158	
Nigeria	13 reports requested
· 8 reports received: Conventions Nos. 11, 19, 87, 88, 98, 100, 111, 144	
· 5 reports not received: Conventions Nos. 8, (137), (178), (179), (185)	
Norway	21 reports requested
· All reports received: Conventions Nos. 8, 11, 12, 19, 42, 68, 87, 98, 100, 102, 111, 113, 118, 122, 126, 128, 130, 141, 144, 156, 168	
Pakistan	12 reports requested
· 10 reports received: Conventions Nos. 16, 18, 19, 22, 87, 96, 98, 100, 111, 144	
· 2 reports not received: Conventions Nos. 11, 118	
Panama	19 reports requested
· 15 reports received: Conventions Nos. 11, 12, 17, 19, 30, 42, 55, 56, 98, 113, 114, 125, 126, 138, 182	
· 4 reports not received: Conventions Nos. 87, 100, 111, 122	
Papua New Guinea	10 reports requested
· No reports received: Conventions Nos. 11, 12, 19, 42, 87, 98, 100, 111, 122, 158	
Paraguay	26 reports requested
· 18 reports received: Conventions Nos. 1, 29, 30, 52, 79, 81, 87, 89, 90, 98, 100, 111, 115, 119, 120, 122, 159, (182)	
· 8 reports not received: Conventions Nos. 11, 14, 101, 105, 106, 117, (138), 169	
Peru	24 reports requested
· 23 reports received: Conventions Nos. 11, 12, 19, 24, 25, 35, 36, 37, 38, 39, 40, 87, 98, 100, 102, 111, 112, 113, 114, 122, (144), (147), 156	
· 1 report not received: Convention No. 44	
Philippines	13 reports requested
· All reports received: Conventions Nos. 17, 19, 23, 87, 98, 100, 111, 118, 122, 141, 144, 157, (165)	
Poland	20 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 19, 24, 25, 42, 87, 95, 98, 100, 102, 111, 113, 122, 141, 144, (148), (159), (161)	
Portugal	14 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 18, 19, 87, 98, 100, 102, 111, 122, 144, 156, 158	
Qatar	1 report requested
· All reports received: Convention No. 111	
Romania	12 reports requested
· All reports received: Conventions Nos. 9, 11, 24, 29, 87, 98, 100, 105, 111, 122, 144, 168	

Russian Federation	15 reports requested
· No reports received: Conventions Nos. 11, 29, 81, 87, 95, 98, 100, 111, 113, 122, 126, (137), 150, (152), 156	
Rwanda	10 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 19, 42, 87, 98, 100, 111, 118	
Saint Kitts and Nevis	8 reports requested
· No reports received: Conventions Nos. 29, (87), (98), (100), 105, 111, 144, 182	
Saint Lucia	19 reports requested
· No reports received: Conventions Nos. 7, 8, 11, 12, 14, 16, 17, 19, 29, 87, 98, 100, 101, 105, 108, 111, (154), (158), (182)	
Saint Vincent and the Grenadines	12 reports requested
· 7 reports received: Conventions Nos. 11, 12, 16, 29, 87, 98, 108	
· 5 reports not received: Conventions Nos. 19, 100, 105, 111, 182	
San Marino	20 reports requested
· No reports received: Conventions Nos. 29, 87, 88, 98, 100, 105, 111, 119, 138, 142, 144, 148, 150, 151, 154, 156, 159, 160, 161, 182	
Sao Tome and Principe	12 reports requested
· No reports received: Conventions Nos. 17, 18, 19, 81, 87, 88, 98, 100, 106, 111, 144, 159	
Saudi Arabia	2 reports requested
· All reports received: Conventions Nos. 100, 111	
Senegal	20 reports requested
· 19 reports received: Conventions Nos. 11, 12, 13, 19, 29, 81, 87, 96, 98, 100, 102, 105, 111, 120, 121, 122, 125, 138, (144)	
· 1 report not received: Convention No. 182	
Serbia	29 reports requested
· 11 reports received: Conventions Nos. 19, (24), (25), 87, 98, 100, 102, 111, 121, 156, 158	
· 18 reports not received: Conventions Nos. (8), 9, 11, 12, (16), (22), (23), (27), (53), (56), (69), (73), (74), 92, (113), (114), 122, 126	
Seychelles	15 reports requested
· All reports received: Conventions Nos. 2, 8, 11, 16, (22), 29, 87, 98, 100, 105, 108, 111, 138, 150, 182	
Sierra Leone	12 reports requested
· No reports received: Conventions Nos. 8, 17, 19, 87, 95, 98, 100, 105, 111, 125, 126, 144	
Singapore	12 reports requested
· All reports received: Conventions Nos. 7, 8, 11, 12, 16, 19, 22, 29, 81, 98, 100, 182	
Slovakia	18 reports requested
· 14 reports received: Conventions Nos. 11, 12, 17, 19, 42, 87, 98, 100, 102, 111, 122, 128, 130, 161	
· 4 reports not received: Conventions Nos. 34, 88, 144, 156	
Slovenia	19 reports requested
· All reports received: Conventions Nos. 11, 12, 19, 24, 25, 87, 98, 100, 102, 111, 113, 114, 121, 122, 126, 147, 156, 158, (180)	
Solomon Islands	5 reports requested
· No reports received: Conventions Nos. 11, 12, 19, 42, 84	
Somalia	4 reports requested
· No reports received: Conventions Nos. 17, 19, 84, 111	

South Africa

7 reports requested

· All reports received: Conventions Nos. 19, 42, 87, 98, 100, 111, 144

Spain

25 reports requested

· All reports received: Conventions Nos. 11, 12, 17, 19, 24, 25, 42, 44, 87, 97, 98, 100, 102, 111, 113, 114, 122, 126, 141, 144, 155, 156, 157, 158, 181

Sri Lanka

8 reports requested

· All reports received: Conventions Nos. 11, 18, 29, 87, 98, 100, 111, 144

Sudan

7 reports requested

· 5 reports received: Conventions Nos. 29, 95, 98, 100, 111
 · 2 reports not received: Conventions Nos. 19, 122

Suriname

10 reports requested

· All reports received: Conventions Nos. 11, 17, 19, 42, 87, 98, 112, 118, 122, 144

Swaziland

12 reports requested

· 3 reports received: Conventions Nos. 29, 96, 138
 · 9 reports not received: Conventions Nos. 11, 12, 19, 87, 98, 100, 111, 144, 160

Sweden

20 reports requested

· 19 reports received: Conventions Nos. 11, 12, 19, 87, 98, 100, 102, 111, 118, 121, 122, 128, 130, 141, 144, 156, 157, 168, (184)
 · 1 report not received: Convention No. 158

Switzerland

12 reports requested

· All reports received: Conventions Nos. 11, 18, 19, 87, 98, 100, 102, 111, 128, 141, 144, 168

Syrian Arab Republic

13 reports requested

· 9 reports received: Conventions Nos. 29, 87, 98, 100, 105, 111, 118, 125, 144
 · 4 reports not received: Conventions Nos. 11, 17, 18, 19

Tajikistan

8 reports requested

· No reports received: Conventions Nos. 11, 87, 98, 100, 111, 113, 122, 126

United Republic of Tanzania

14 reports requested

· 7 reports received: Conventions Nos. 16, 87, 98, 100, 111, 138, 144
 · 7 reports not received: Conventions Nos. 11, 12, 17, 19, 29, 94, 105

Tanganyika

3 reports requested

· 2 reports received: Conventions Nos. 81, 108
 · 1 report not received: Convention No. 45

Thailand

8 reports requested

· 3 reports received: Conventions Nos. 29, 105, 182
 · 5 reports not received: Conventions Nos. 19, 88, 100, 122, (138)

The former Yugoslav Republic of Macedonia

60 reports requested

· No reports received: Conventions Nos. 8, 9, 11, 12, 13, 14, 16, 19, 22, 23, 24, 25, 27, 29, 32, 45, 53, 56, 69, 73, 74, 81, 87, 88, 89, 90, 91, 92, 97, 98, 100, 102, 103, (105), 106, 111, 113, 114, 119, 121, 122, 126, 129, 131, 132, 135, 136, 138, 139, 140, 142, 143, 148, 155, 156, 158, 159, 161, 162, (182)

Togo

11 reports requested

· No reports received: Conventions Nos. 11, 29, 85, 87, 98, 100, 105, 111, 138, 144, 182

Trinidad and Tobago

14 reports requested

· 5 reports received: Conventions Nos. 16, 29, 105, 147, (182)
 · 9 reports not received: Conventions Nos. 19, 85, 87, 98, 100, 111, 125, (138), 144

Tunisia	14 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 18, 19, 87, 98, 100, 111, 113, 114, 118, 122, 127	
Turkey	19 reports requested
· 18 reports received: Conventions Nos. 11, 42, (68), (69), (73), 87, 88, (92), 96, 98, 100, 102, 111, 118, 122, (133), 144, 158	
· 1 report not received: Convention No. 115	
Turkmenistan	6 reports requested
· No reports received: Conventions Nos. (29), (87), (98), (100), (105), (111)	
Uganda	20 reports requested
· 8 reports received: Conventions Nos. 17, 26, 81, 105, 123, 143, 159, (182)	
· 12 reports not received: Conventions Nos. 11, 12, 19, 29, 45, 94, 98, 122, (138), 144, 158, 162	
Ukraine	21 reports requested
· 20 reports received: Conventions Nos. 23, 29, 69, (81), 87, 95, 98, 100, 108, 111, 113, 122, 126, (129), 133, 144, 147, (150), 156, 158	
· 1 report not received: Convention No. 11	
United Arab Emirates	2 reports requested
· All reports received: Conventions Nos. 100, 111	
United Kingdom	18 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 19, 24, 25, 42, 44, 87, 98, 100, 102, 111, 114, 122, 126, 141, 144	
<i>Anguilla</i>	15 reports requested
· No reports received: Conventions Nos. 8, 11, 12, 17, 19, 22, 23, 29, 42, 58, 85, 87, 98, 105, 108	
<i>Bermuda</i>	7 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 19, 42, 87, 98	
<i>British Virgin Islands</i>	7 reports requested
· All reports received: Conventions Nos. 8, 11, 12, 17, 19, 87, 98	
<i>Falkland Islands (Malvinas)</i>	15 reports requested
· All reports received: Conventions Nos. 8, 11, 12, 17, 19, 22, 23, 29, 42, 58, 87, 98, 105, 108, 141	
<i>Gibraltar</i>	8 reports requested
· 7 reports received: Conventions Nos. 11, 12, 17, 19, 42, 98, 100	
· 1 report not received: Convention No. 87	
<i>Guernsey</i>	12 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 19, 24, 25, 42, 87, 98, 114, 122, 141	
<i>Isle of Man</i>	12 reports requested
· 11 reports received: Conventions Nos. 11, 12, 17, 19, 24, 25, 42, 87, 98, 102, 126	
· 1 report not received: Convention No. 122	
<i>Jersey</i>	9 reports requested
· All reports received: Conventions Nos. 11, 12, 17, 19, 24, 25, 42, 87, 98	
<i>Montserrat</i>	18 reports requested
· No reports received: Conventions Nos. 8, 11, 12, 14, 16, 17, 19, 26, 29, 42, 58, 82, 85, 87, 95, 98, 105, 108	
<i>St. Helena</i>	16 reports requested
· No reports received: Conventions Nos. 8, 11, 12, 16, 17, 19, 29, 58, 63, 85, 87, 98, 105, 108, 150, 151	
United States	7 reports requested
· All reports received: Conventions Nos. 53, 55, 105, 144, 147, 160, 182	

<i>American Samoa</i>	4 reports requested
· All reports received: Conventions Nos. 53, 55, 144, 147	
<i>Guam</i>	4 reports requested
· All reports received: Conventions Nos. 53, 55, 144, 147	
<i>Northern Mariana Islands</i>	2 reports requested
· All reports received: Conventions Nos. 144, 147	
<i>Puerto Rico</i>	4 reports requested
· All reports received: Conventions Nos. 53, 55, 144, 147	
<i>United States Virgin Islands</i>	4 reports requested
· All reports received: Conventions Nos. 53, 55, 144, 147	
Uruguay	18 reports requested
· All reports received: Conventions Nos. 11, 19, 87, 98, 100, 111, 113, 114, 118, 121, 122, 128, 130, 141, 144, 156, 159, (181)	
Uzbekistan	6 reports requested
· No reports received: Conventions Nos. 29, 98, 100, 105, 111, 122	
Bolivarian Republic of Venezuela	18 reports requested
· All reports received: Conventions Nos. 3, 11, 19, 87, 98, 100, 102, 111, 118, 121, 122, 128, 130, 141, 144, 156, 158, 169	
Viet Nam	4 reports requested
· All reports received: Conventions Nos. 81, 100, 111, 182	
Yemen	11 reports requested
· All reports received: Conventions Nos. 19, 58, 87, 98, 100, 111, 122, 131, 144, 156, 158	
Zambia	27 reports requested
· 18 reports received: Conventions Nos. 29, 87, 95, 98, 100, 103, 105, 111, 117, 122, 136, 138, 141, 144, 149, 150, 159, 173	
· 9 reports not received: Conventions Nos. 11, 12, 17, 18, 19, 151, 154, 158, 176	
Zimbabwe	10 reports requested
· All reports received: Conventions Nos. 19, 87, 98, 100, 111, 144, 155, 161, 162, 176	

Grand Total

A total of 2,586 reports (article 22) were requested,
of which 1,719 reports (66.47 per cent) were received.

A total of 353 reports (article 35) were requested,
of which 239 reports (67.71 per cent) were received.

**Appendix II. Statistical table of reports received on ratified Conventions
as of 8 December 2006
(article 22 of the Constitution)**

Conference year	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee of Experts		Reports received in time for the session of the Conference	
1932	447	–		406	90.8%	423	94.6%
1933	522	–		435	83.3%	453	86.7%
1934	601	–		508	84.5%	544	90.5%
1935	630	–		584	92.7%	620	98.4%
1936	662	–		577	87.2%	604	91.2%
1937	702	–		580	82.6%	634	90.3%
1938	748	–		616	82.4%	635	84.9%
1939	766	–		588	76.8%	–	
1944	583	–		251	43.1%	314	53.9%
1945	725	–		351	48.4%	523	72.2%
1946	731	–		370	50.6%	578	79.1%
1947	763	–		581	76.1%	666	87.3%
1948	799	–		521	65.2%	648	81.1%
1949	806	134	16.6%	666	82.6%	695	86.2%
1950	831	253	30.4%	597	71.8%	666	80.1%
1951	907	288	31.7%	507	77.7%	761	83.9%
1952	981	268	27.3%	743	75.7%	826	84.2%
1953	1 026	212	20.6%	840	75.7%	917	89.3%
1954	1 175	268	22.8%	1 077	91.7%	1 119	95.2%
1955	1 234	283	22.9%	1 063	86.1%	1 170	94.8%
1956	1 333	332	24.9%	1 234	92.5%	1 283	96.2%
1957	1 418	210	14.7%	1 295	91.3%	1 349	95.1%
1958	1 558	340	21.8%	1 484	95.2%	1 509	96.8%
As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions.							
1959	995	200	20.4%	864	86.8%	902	90.6%
1960	1 100	256	23.2%	838	76.1%	963	87.4%
1961	1 362	243	18.1%	1 090	80.0%	1 142	83.8%
1962	1 309	200	15.5%	1 059	80.9%	1 121	85.6%
1963	1 624	280	17.2%	1 314	80.9%	1 430	88.0%
1964	1 495	213	14.2%	1 268	84.8%	1 356	90.7%
1965	1 700	282	16.6%	1 444	84.9%	1 527	89.8%
1966	1 562	245	16.3%	1 330	85.1%	1 395	89.3%
1967	1 883	323	17.4%	1 551	84.5%	1 643	89.6%
1968	1 647	281	17.1%	1 409	85.5%	1 470	89.1%
1969	1 821	249	13.4%	1 501	82.4%	1 601	87.9%
1970	1 894	360	18.9%	1 463	77.0%	1 549	81.6%
1971	1 992	237	11.8%	1 504	75.5%	1 707	85.6%
1972	2 025	297	14.6%	1 572	77.6%	1 753	86.5%
1973	2 048	300	14.6%	1 521	74.3%	1 691	82.5%
1974	2 189	370	16.5%	1 854	84.6%	1 958	89.4%
1975	2 034	301	14.8%	1 663	81.7%	1 764	86.7%
1976	2 200	292	13.2%	1 831	83.0%	1 914	87.0%
As a result of a decision by the Governing Body (November 1976), detailed reports were requested as from 1977 until 1994, according to certain criteria, at yearly, two-yearly or four-yearly intervals.							
1977	1 529	215	14.0%	1 120	73.2%	1 328	87.0%
1978	1 701	251	14.7%	1 289	75.7%	1 391	81.7%
1979	1 593	234	14.7%	1 270	79.8%	1 376	86.4%
1980	1 581	168	10.6%	1 302	82.2%	1 437	90.8%
1981	1 543	127	8.1%	1 210	78.4%	1 340	86.7%
1982	1 695	332	19.4%	1 382	81.4%	1 493	88.0%
1983	1 737	236	13.5%	1 388	79.9%	1 558	89.6%

Conference year	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee of Experts		Reports received in time for the session of the Conference	
1984	1 669	189	11.3%	1 286	77.0%	1 412	84.6%
1985	1 666	189	11.3%	1 312	78.7%	1 471	88.2%
1986	1 752	207	11.8%	1 388	79.2%	1 529	87.3%
1987	1 793	171	9.5%	1 408	78.4%	1 542	86.0%
1988	1 636	149	9.0%	1 230	75.9%	1 384	84.4%
1989	1 719	196	11.4%	1 256	73.0%	1 409	81.9%
1990	1 958	192	9.8%	1 409	71.9%	1 639	83.7%
1991	2 010	271	13.4%	1 411	69.9%	1 544	76.8%
1992	1 824	313	17.1%	1 194	65.4%	1 384	75.8%
1993	1 906	471	24.7%	1 233	64.6%	1 473	77.2%
1994	2 290	370	16.1%	1 573	68.7%	1 879	82.0%
As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995.							
1995	1 252	479	38.2%	824	65.8%	988	78.9%
As a result of a decision by the Governing Body (November 1993), reports are henceforth requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals.							
1996	1 806	362	20.5%	1 145	63.3%	1 413	78.2%
1997	1 927	553	28.7%	1 211	62.8%	1 438	74.6%
1998	2 036	463	22.7%	1 264	62.1%	1 455	71.4%
1999	2 288	520	22.7%	1 406	61.4%	1 641	71.7%
2000	2 550	740	29.0%	1 798	70.5%	1 952	76.6%
2001	2 313	598	25.9%	1 513	65.4%	1 672	72.2%
2002	2 368	600	25.3%	1 529	64.5%	1 852	72.1%
2003	2 344	568	24.2%	1 544	65.9%	1 701	72.6%
2004	2 569	659	25.6%	1 645	64.0%	1 852	72.1%
2005	2 638	696	26.4%	1 820	69.0%	2 065	78.3%
2006	2 586	745	28.8%	1 719	66.5%		

Appendix III. List of observations made by employers' and workers' organizations

Afghanistan

- All Afghanistan Federation of Trade Union (AAFTU)

on Conventions Nos.

13, 14, 15, 45, 61, 66, 95, 100, 105, 111, 137, 139, 140, 142

Algeria

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Angola

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.

98

Argentina

- Confederation of Argentinian Workers (CTA)
- General Confederation of Labour (CGT)
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87
29, 87, 98
29, 87

Australia

- Australian Council of Trade Unions (ACTU)
- International Confederation of Free Trade Unions (ICFTU)
- National Tertiary Education Industry Union (NTEU)

on Conventions Nos.

87, 98
87, 98
98, 135

Azerbaijan

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Bahamas

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.

98

Bangladesh

- Bangladesh Free Trade Union Congress (BFTUC)
- Bangladesh Jatiya Sramik Federation (BJSF)
- Bangladesh Labour Federation (BLF)
- Bangladesh Trade Union Kendra (BTUK)
- International Confederation of Free Trade Unions (ICFTU)
- Jatiya Sramik Federation Bangladesh (JSFB)
- Jatiya Sramik League (JSL)
- Jatiyo Sramik Jote (JSJ)

on Conventions Nos.

81
81
81
81
87, 98
81
81
81

Barbados

- Barbados Workers' Union (BWU)
- Congress of Trade Unions and Staff Associations of Barbados (CTUSAB)

on Conventions Nos.

100, 111, 182
74, 108

Belarus

- International Confederation of Free Trade Unions (ICFTU)
- International Trade Union Confederation (ITUC)

on Conventions Nos.

87, 98
87, 98

Belgium

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Belize

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Bolivia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

29, 87, 98, 182

Bosnia and Herzegovina

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Botswana

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Brazil

- International Confederation of Free Trade Unions (ICFTU)
- National Federation of Controllers, Warehousemen, Monitors at Port, Workers at Platforms, and Stevedores of Ships, during activities in Ports

on Conventions Nos.
29, 98, 182
137

Bulgaria

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Burkina Faso

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Cambodia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Cameroon

- General Union of Cameroon Workers
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
10, 81, 94, 131, 138, 158
87

Canada

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
87

Central African Republic

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Chad

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
87

Chile

- National Confederation of Municipal Employees of Chile (ASEMUCH)
- National inter-entreprises Union of Metallurgists, Energy and other Branches
- Workers Federation of the Copper Industry of Chile

on Conventions Nos.
87, 98, 151
87, 98, 135, 151
35, 37, 121

China

- All-China Federation of Trade Unions (ACFTU)
- China Enterprise Federation (CEF)
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
11, 26, 29, 138, 182
29
26, 138, 182

Colombia

- Confederation of Workers of Colombia (CTC)
- General Confederation of Labour (CGT)
- International Confederation of Free Trade Unions (ICFTU)
- Single Confederation of Workers of Colombia (CUT)
- Trade Union of Civil Servants, University Hospital of Valle
- Union of Maritime and Inland Water Transport Industry Workers (UNIMAR)
- Workers' Trade Union Confederation (USO)

on Conventions Nos.
87, 98, 151
87, 98, 151
87, 98
87, 98, 144, 151
144, 151
87, 95, 98
169

Congo

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
87

Costa Rica

- International Confederation of Free Trade Unions (ICFTU)
- Union of Public and Private Enterprise Workers (SITEPP)

on Conventions Nos.
87, 98
87, 98, 120, 135, 148

Côte d'Ivoire

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Croatia

- Association of the Workers Affected by Asbestosis - Vranjic
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
162
87, 98

Cuba

- International Confederation of Free Trade Unions (ICFTU)
- World Confederation of Labour (WCL)
- World Federation of Trade Unions (WFTU)

on Conventions Nos.
29, 87, 98, 105
29, 105
29, 105

Cyprus

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Czech Republic

- Czech-Moravian Confederation of Trade Unions (CM KOS)
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
5, 10, 17, 19, 42, 77, 95, 155
87, 98

Democratic Republic of the Congo

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Denmark

- Confederation of Danish Employers (DA)
- Danish Confederation of Trade Unions (LO)
- United Federation of Danish Workers (3F)

on Conventions Nos.
87, 98
87, 98
87, 98

Djibouti

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Dominican Republic

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Ecuador

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Egypt

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Equatorial Guinea

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Eritrea

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Estonia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Ethiopia

- Education International
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98
87

Fiji

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Finland

- Central Organization of Finnish Trade Unions (SAK)
- Commission for Local Authority Employers (KT)
- Confederation of Unions for Academic Professionals in Finland (AKAVA)
- Finnish Confederation of Salaried Employees (STTK)

on Conventions Nos.
81, 120, 124, 129, 138, 156
11, 94, 129, 138, 156
81, 124, 129, 138, 156, 158
94, 156, 158

France

- Single National Union - Work, Employment, Training and Professional Integration

on Conventions Nos.
81, 129

Gabon

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Gambia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Georgia

- Georgian Trade Union Confederation (GTUC)
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
29, 105, 138, 182
87, 98

Germany

- German Confederation of Trade Unions (DGB)
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
118, 130
87, 98

Ghana

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Greece

- Greek General Confederation of Labor (GSEE)

on Conventions Nos.
29, 105

Guatemala

- International Confederation of Free Trade Unions (ICFTU)
- Union of Aeronautical Workers (USTAC)

on Conventions Nos.
98
111

Guinea

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Guinea-Bissau

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
98

Guyana

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Haiti

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Honduras

- Council of the Private Enterprise of Honduras (COHEP)
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
29, 78, 81, 95, 105, 138, 182
87, 98

Hungary

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

India

- Centre of Indian Trade Unions (CITU)
- Hind Mazdoor Sabha (HMS)

on Conventions Nos.
26
111

Indonesia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Iraq

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
98

Israel

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Jamaica

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Japan

- All Japan Shipbuilding and Engineering Union (ALSEU)
- Federation of Korean Trade Unions (FKTU) and Korean Confederation of Trade Unions (KCTU)
- International Confederation of Free Trade Unions (ICFTU)
- Japanese Trade Union Confederation (JTUC-RENGO)
- Tokyo Local Council of Trade Unions
- Zentoitsu Workers Union

on Conventions Nos.
29
29
87, 98
81, 87, 98, 156
29
87, 98

Jordan

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
98

Kazakhstan

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Kenya

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
98

Kuwait

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
87

Latvia

- Latvian Free Trade Union Federation (LBAS)

on Convention No.
100

Lebanon

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
98

Lesotho

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Liberia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Libyan Arab Jamahiriya

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Lithuania

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Madagascar

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Malawi

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Malaysia

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
98

Malta

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Mauritania

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
29, 87, 98

Mauritius

- Federation of Parastatal Bodies & Other Unions (FPBOU)
- International Confederation of Free Trade Unions (ICFTU)
- World Confederation of Labour (WCL)

on Conventions Nos.
111
87, 98, 105
105

Mexico

- Confederation of Workers of Mexico (CTM)
- Independent Union of Daily Workers (SINTRAJOR)

on Conventions Nos.
19, 87, 100, 111
169

Republic of Moldova

- Confederation of Trade Unions of the Republic of Moldova
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98, 111
87, 98

Morocco

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
98

Mozambique

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Myanmar

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
29, 87

Namibia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Nepal

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
98

Netherlands

- Confederation of Netherlands Industry and Employers (VNO-NCW)
- National Federation of Christian Trade Unions (CNV)
- Trade Union Confederation of Middle and Higher Level Employees Unions (MHP)

on Conventions Nos.
100, 111, 156
87
87

New Zealand

- Business New Zealand
- New Zealand Council of Trade Unions (NZCTU)

on Conventions Nos.
11, 17, 111
11, 12, 17, 42, 84, 122

Tokelau

- New Zealand Council of Trade Unions (NZCTU)

on Conventions Nos.
100, 111

Nicaragua

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Nigeria

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Norway

- Confederation of Trade Unions (LO)

on Conventions Nos.
100, 144, 156

Pakistan

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
29, 87, 98

Panama

- International Confederation of Free Trade Unions (ICFTU)
- National Federation of Associations and Organizations of Public Servants (FENASEP)

on Conventions Nos.
87, 98
3, 111

Paraguay

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
29, 87, 98, 182

Peru

- Federation of the Workers of Peru (FETRAPEP)
- General Confederation of Workers of Peru (CGTP)
- International Confederation of Free Trade Unions (ICFTU)
- National Union of Public Employees in the Armed Forces (SINEP-FFAA)

on Conventions Nos.
71, 102
169
29, 87, 98, 182
87, 151

Philippines

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98, 182

Poland

- Independent Self-Governing Trade Union Solidarity (SOLIDARNOSC)
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
111
87, 98

Portugal

- Confederation of Portuguese Industry (CIP)
- General Union of Workers (UGT)
- Portuguese Confederation of Tourism (CTP)

on Conventions Nos.
87, 98, 144
12, 17, 19, 87, 98, 100, 102, 111, 122,
158
17, 18, 87, 100, 111, 122, 158

Romania

- Democratic Confederation of Trade Unions of Romania (CSDR)
- International Confederation of Free Trade Unions (ICFTU)
- National Trade Union Confederation (CNS 'CARTEL ALFA')
- National Union Block (BUN)
- World Confederation of Labour (WCL)

on Conventions Nos.
87, 95
87, 98
87
87
87, 98

Russian Federation

- Independent Union of Fishermen of Kamchatka (IUFK)
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
95
87, 98

Rwanda

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Senegal

- International Confederation of Free Trade Unions (ICFTU)
- National Confederation of Employers of Senegal
- National Confederation of Workers of Senegal
- National Federation of Independent Unions of Senegal

on Conventions Nos.
87, 98
87
87
87

Serbia

- Association of Teacher's Unions of Serbia (USPRS)
- Confederation of Autonomous Trade Unions of Serbia
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

87

87, 98

Singapore

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.

98

Slovakia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

South Africa

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Spain

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Sri Lanka

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Sudan

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.

98

Swaziland

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Switzerland

- International Confederation of Free Trade Unions (ICFTU)
- Swiss Federation of Trade Unions (USS/SGB)

on Conventions Nos.

87, 98

87, 98, 100, 111, 144, 168

Syrian Arab Republic

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

United Republic of Tanzania

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Thailand

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.

29

The former Yugoslav Republic of Macedonia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Togo

- International Confederation of Free Trade Unions (ICFTU)
- World Confederation of Labour (WCL)

on Conventions Nos.

29, 87, 98, 105

29, 105

Trinidad and Tobago

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Tunisia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87, 98

Turkey

- | | |
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| • Confederation of Progressive Trade Unions of Turkey (DISK) | on Conventions Nos. |
| • Confederation of Public Servants Trade Unions (KESK) | 87, 98 |
| • Confederation of Turkish Trade Unions (TÜRK-İS) | 87, 98, 151 |
| • International Confederation of Free Trade Unions (ICFTU) | 87 |
| • Turkish Confederation of Public Workers Associations (Türkiye Kamu-Sen) | 87, 98 |
| | 87, 98, 135, 151 |

Uganda

- | | |
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| • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos. |
| | 87, 98 |

Ukraine

- | | |
|--|---------------------|
| • Confederation of Free Trade Unions of the Lugansk Region - KSPLO | on Conventions Nos. |
| • Federation of Trade Unions of Ukraine | 81, 95, 98, 150 |
| • International Confederation of Free Trade Unions (ICFTU) | 95, 98 |
| • Joint Representative Body of all-Ukrainian Trade Unions and Trade Union Associations | 87, 98 |
| • Workers' Union of the Coal Mine Nikanor-Novaya (NPG) | 95 |
| | 95 |

United Arab Emirates

- | | |
|--|---------------------|
| • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos. |
| | 182 |

United Kingdom

- | | |
|--|---------------------|
| • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos. |
| • Trades Union Congress (TUC) | 29, 87, 98 |
| • Transport and General Workers Union (TGWU) | 87, 98, 144 |
| | 87, 98 |

United States

- | | |
|---|-------------------|
| • American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) | on Convention No. |
| | 182 |

Uruguay

- | | |
|--|--------------------------------------|
| • Inter-Union Assembly of Workers - National Convention of Workers (PIT-CNT) | on Conventions Nos. |
| • Latin-American Confederation of Labour Inspectors (CIIT) | 87, 98, 100, 111, 121, 122, 128, 144 |
| | 81 |

Bolivarian Republic of Venezuela

- | | |
|--|---------------------|
| • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos. |
| • National Single Federation of Public Employees (FEDE-UNEP) | 87 |
| | 111 |

Yemen

- | | |
|--|---------------------|
| • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos. |
| | 87, 98 |

Zambia

- | | |
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| • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos. |
| | 87, 98 |

Zimbabwe

- | | |
|--|---------------------|
| • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos. |
| • Zimbabwe Congress of Trade Unions (ZCTU) | 87, 98 |
| | 87, 98, 111, 144 |

Appendix IV. Summary of information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities

Article 19 of the Constitution of the International Labour Organization prescribes, in paragraphs 5, 6 and 7, that Members shall bring the Conventions, Recommendations and Protocols adopted by the International Labour Conference before the competent authorities within a specified period. Under the same provisions, the governments of member States shall inform the Director-General of the International Labour Office of the measures taken to submit the instruments to the competent authorities, and also communicate particulars of the authority or authorities regarded as competent, and of the action taken by them.

In accordance with article 23 of the Constitution, a summary of the information communicated in pursuance of article 19 is submitted to the Conference.

At its 267th Session (November 1996), the Governing Body approved new measures of rationalization and simplification. In this connection, the summarized information appears in an appendix to the report of the Committee of Experts on the Application of Conventions and Recommendations.

The present summary contains information relating to the submission to the competent authorities of the Human Resources Development Recommendation, 2004 (No. 195), adopted by the Conference at its 92nd Session (June 2004). The period of 12 months provided for the submission to the competent authorities of Recommendation No. 195 expired on 17 June 2005, and the period of 18 months on 17 December 2005.

At its 294th Session (November 2005), the Governing Body decided to include on the agenda of the 96th Session (June 2007) of the Conference an item on work in the fishing sector with a view to the adoption of a Convention supplemented by a Recommendation. In consequence, the Director-General has not communicated to member States the authentic text of the Work in Fishing Recommendation, adopted on 16 June 2005 by the International Labour Conference (93rd Session).

At its 94th (Maritime) Session (February 2006), the Conference adopted the Maritime Labour Convention, 2006. The period of 12 months provided for the submission to the competent authorities of the Maritime Labour Convention, 2006, will expire on 23 February 2007, and the period of 18 months on 23 August 2007.

At its 95th Session (June 2006), the Conference adopted the Promotional Framework for Occupational Safety and Health Convention and Recommendation, 2006, and the Employment Relationship Recommendation, 2006. The period of 12 months provided for the submission to the competent authorities of Convention No. 187 and Recommendations Nos. 197 and 198 will expire on 16 June 2007, and the period of 18 months on 16 December 2007.

In its next report, this summary will contain information on the progress achieved by governments in the submission to the competent authorities of the instruments adopted at the 94th and 95th Sessions of the Conference.

This summarized information also consists of communications which were forwarded to the Director-General of the International Labour Office after the closure of the 95th Session of the Conference (Geneva, June 2006) and which could not therefore be laid before the Conference at that session.

Algeria. Recommendation No. 195 was submitted to the People's National Assembly and the Council of the Nation on 4 May 2005.

Australia. Recommendation No. 195 was submitted to the federal Parliament on 30 November 2005.

Azerbaijan. Recommendation No. 195 has been submitted to the National Assembly.

Barbados. Recommendation No. 195 was submitted to Parliament on 8 August 2006.

Belarus. Recommendation No. 195 was submitted to the National Assembly on 28 February 2005.

Benin. Recommendation No. 195 was submitted to the National Assembly on 24 August 2005.

Bulgaria. Recommendation No. 195 was submitted to the National Assembly on 5 April 2006.

Burundi. Recommendation No. 195 was submitted to the National Assembly on 19 October 2006.

China. Recommendation No. 195 has been submitted to a competent authority.

Costa Rica. The instruments adopted at the 92nd and 95th Sessions of the Conference were submitted to the Legislative Assembly on 24 February 2005 and on 13 November 2006, respectively.

Cyprus. Recommendation No. 195 has been submitted to the House of Representatives.

Czech Republic. Recommendation No. 195 was submitted to Parliament on 8 June 2005.

Denmark. Recommendation No. 195 was submitted to Parliament (*Folketinget*) on 26 July 2005.

Dominican Republic. Recommendation No. 195 was submitted to the National Congress on 21 March 2005.

Egypt. The instruments adopted at the 92nd, 94th and 95th Sessions of the Conference were submitted to the People's Assembly on 1 January 2005, 6 June and 29 October 2006, respectively.

Estonia. Recommendation No. 195 was submitted to Parliament on 7 April 2005.

Finland. Recommendation No. 195 was submitted to Parliament on 14 October 2005.

France. Recommendation No. 195 was submitted to the National Assembly and the Senate on 27 May 2005.

Germany. Recommendation No. 195 was submitted to the *Bundestag* and the *Bundesrat* on 20 January 2005.

Greece. Recommendation No. 195 was submitted to the Greek Chamber of Deputies on 7 November 2005.

Guatemala. The instruments adopted at the 92nd, 94th and 95th Sessions of the Conference were submitted to the Congress of the Republic on 21 January 2005, 14 July and 6 October 2006, respectively.

Guinea-Bissau. The Maritime Labour Convention, 2006, was submitted to the National People's Assembly on 1 September 2006.

Guyana. Recommendation No. 195 was submitted to the National Assembly on 15 December 2005.

Honduras. Recommendation No. 195 was submitted to the Congress of the Republic on 12 January 2005.

Hungary. Recommendation No. 195 was submitted to Parliament on 16 September 2005.

Iceland. Recommendation No. 195 and the Maritime Labour Convention, 2006, were submitted to Parliament in February 2005 and in November 2006, respectively.

India. Recommendation No. 195 was submitted to the House of the People and the Council of States on 20 and 22 December 2005.

Indonesia. Recommendation No. 195 was submitted to the House of Representatives on 15 December 2005.

Israel. Recommendation No. 195 was submitted to the *Knesset* on 6 October 2005.

Italy. Recommendation No. 195 was submitted to the House of Representatives and the Senate on 8 September 2005.

Japan. Recommendation No. 195 was submitted to the *Diet* on 3 June 2005.

Lebanon. Recommendation No. 195 was submitted to the National Assembly on 17 October 2005.

Liberia. The ratification of the Maritime Labour Convention, 2006, was registered on 7 June 2006.

Lithuania. Recommendation No. 195 has been submitted to the *Seimas*.

Luxembourg. Recommendation No. 195 was submitted to the Chamber of Deputies on 14 April 2005.

Malawi. Recommendation No. 195 was submitted to the National Assembly on 26 July 2006.

Malaysia. Recommendation No. 195 was submitted to Parliament on 7 December 2004.

Mauritius. Recommendation No. 195 was submitted to the National Assembly on 11 October 2005.

Myanmar. Recommendation No. 195 was submitted to a competent authority on 22 August 2005.

Netherlands. Recommendation No. 195 was submitted to Parliament on 4 July 2006.

New Zealand. Recommendation No. 195 and the Work in Fishing Recommendation, 2005, were submitted to the House of Representatives on 11 November 2005 and 26 June 2006, respectively.

Nicaragua. Recommendation No. 195 was submitted to the National Assembly on 3 February 2005.

Nigeria. The instruments adopted at the 92nd and 95th Sessions of the Conference have been submitted to the National Assembly.

Norway. Recommendation No. 195 was submitted to Parliament (*Storting*) on 18 March 2005.

Panama. Recommendation No. 195 was submitted to the Legislative Assembly on 25 April 2005.

Philippines. Recommendation No. 195 was submitted to the House of Representatives and the Senate on 7 April 2005.

Poland. Recommendation No. 195 was submitted to the *Sejm* on 14 June 2005.

Portugal. Recommendation No. 195 was submitted to the Assembly of the Republic on 13 October 2005.

Qatar. Recommendation No. 195 was submitted to the Council of Ministers and the Consultative Council in September 2005.

Romania. Recommendation No. 195 was submitted to the House of Representatives and the Senate in March 2005.

San Marino. Recommendation No. 195 was submitted to the Great and General Council on 20 February 2006.

Saudi Arabia. Recommendation No. 195 was submitted to the Council of Ministers and the Consultative Council on 18 May 2005.

Slovakia. Recommendation No. 195 was submitted to the National Council on 17 December 2004.

Slovenia. Recommendation No. 195 was submitted to the National Assembly on 9 September 2004.

South Africa. Recommendation No. 195 was submitted to Parliament on 26 August 2005.

Switzerland. Recommendation No. 195 and the Work in Fishing Recommendation, 2005, were submitted to Parliament on 15 February 2006.

United Republic of Tanzania. Recommendation No. 195 was submitted to the National Assembly on 26 May 2005.

Trinidad and Tobago. Recommendation No. 195 was submitted to the Senate on 15 March 2005 and the House of Representatives on 1 April 2005.

Tunisia. Recommendation No. 195 was submitted to the Chamber of Councillors on 11 January 2005.

Turkey. Recommendation No. 195 was submitted to the Grand National Assembly on 26 December 2004.

United Arab Emirates. Recommendation No. 195 has been submitted to the competent authorities.

United Kingdom. Recommendation No. 195 was submitted to Parliament in October 2005.

United States. Recommendation No. 195 was submitted to the Senate and the House of Representatives on 9 March 2006.

Uruguay. Recommendation No. 195 was submitted to the competent authority on 2 May 2006.

Viet Nam. Recommendation No. 195 was submitted to the National Assembly on 10 March 2005.

Zimbabwe. Recommendation No. 195 was submitted to Parliament on 7 March 2005.

The Committee has deemed it necessary in certain cases to request additional information on the nature of the competent authorities to which instruments adopted by the Conference have been submitted, as well as other indications required by the questionnaire at the end of the Memorandum of 1980, as revised in March 2005.

**Appendix V. Information supplied by governments with regard to the
obligation to submit Conventions and Recommendations
to the competent authorities**

(31st to 92nd Sessions of the International Labour Conference, 1948-2004)

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. The Protocols are indicated by the letter "P" followed by the number of the corresponding Convention. When the ratification of a Convention was registered, that Convention and the corresponding Recommendation are considered as 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.

The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972) and 73rd Session (June 1987).

	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	31-56, 58-70	71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Albania	31-49, 79-81, 82(C176; R183), 83, 84(C178; R186), 85, 87-88, 90(P155)	78, 82(P081), 84(C179; C180; P147; R185; R187), 86, 89, 90(R193; R194), 91, 92
Algeria	47-56, 58-72, 74-92	-
Angola	61-72, 74-78, 79(C173), 80-81, 82(C176; R183), 83-85, 87-90	79(R180), 82(P081), 86, 91, 92
Antigua and Barbuda	68-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Argentina	31-56, 58-72, 74-83, 87, 89	84, 85, 86, 88, 90, 91, 92
Armenia	87	80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Australia	31-56, 58-72, 74-92	-
Austria	31-56, 58-72, 74-91	92
Azerbaijan	79(C173), 80-82, 85-87, 91-92	79(R180), 83, 84, 88, 89, 90
Bahamas	61-72, 74-84, 87	85, 86, 88, 89, 90, 91, 92
Bahrain	63-72, 74-87	88, 89, 90, 91, 92
Bangladesh	58-72, 74-76, 77(C171; R178), 78, 80, 84(C178; C180; P147), 85(C181), 87	77(C170; P089; R177), 79, 81, 82, 83, 84(C179; R185; R186; R187), 85(R188), 86, 88, 89, 90, 91, 92

	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	51-56, 58-72, 74-92	-
Belarus	37-56, 58-72, 74-92	-
Belgium	31-56, 58-72, 74-91	92
Belize	68-72, 74-76, 84(P147), 87-88	77, 78, 79, 80, 81, 82, 83, 84(C178; C179; C180; R185; R186; R187), 85, 86, 89, 90, 91, 92
Benin	45-56, 58-72, 74-92	-
Bolivia	31-56, 58-72, 74-79, 80(C174), 81(C175), 82(C176), 83(C177), 84(C178; C179; C180), 85(C181), 87, 88(C183), 89(C184), 91	80(R181), 81(R182), 82(P081; R183), 83(R184), 84(P147; R185; R186; R187), 85(R188), 86, 88(R191), 89(R192), 90, 92
Bosnia and Herzegovina	87	80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Botswana	64-72, 74-77, 78(R179), 79-87	78(C172), 88, 89, 90, 91, 92
Brazil	31-50, 51(C127; R128; R129; R130; R131), 53(R133; R134), 54-56, 58-62, 63(C148; R156; R157), 64(R158; R159), 65-66, 67(C154; C155; R163; R164; R165), 68(C158; P110; R166), 69-72, 74-77, 80, 82(C176; R183), 84(C178; R185), 87, 89	51(C128), 52, 53(C129; C130), 63(C149), 64(C150; C151), 67(C156), 68(C157), 78, 79, 81, 82(P081), 83, 84(C179; C180; P147; R186; R187), 85, 86, 88, 90, 91, 92
Bulgaria	31-56, 58-72, 74-92	-
Burkina Faso	45-56, 58-72, 74-87	88, 89, 90, 91, 92
Burundi	47-56, 58-72, 74-92	-
Cambodia	53-54, 56, 58(C138; R146), 64(C150; R158), 87	55, 58(C137; R145), 59, 60, 61, 62, 63, 64(C151; R159), 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Cameroon	44-56, 58-68, 72, 74, 87	69, 70, 71, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Canada	31-56, 58-72, 74-90	91, 92
Cape Verde	65-72, 74-81, 87	82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Central African Republic	45-56, 58-72, 74, 87	75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92

	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)
Chad	45-56, 58-72, 74-79, 84-87	80, 81, 82, 83, 88, 89, 90, 91, 92
Chile	31-56, 58-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
China	31-56, 58-72, 74-92	-
Colombia	31-56, 58-72, 74, 75(C167; R175; R176), 76-78, 79(R180), 80, 81(C175), 87, 88(C183), 89(C184)	75(C168), 79(C173), 81(R182), 82, 83, 84, 85, 86, 88(R191), 89(R192), 90, 91, 92
Comoros	65-72, 74-78, 87	79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Congo	45-53, 54(C131; C132), 55(C133; C134), 56, 58(C138; R146), 59, 60(C142; R150), 61, 63(C148; C149; R157), 64-66, 67(C154; C155; C156), 68(C158), 71(C160; C161), 75(C167; C168), 76, 87	54(R135; R136), 55(R137; R138; R139; R140; R141; R142), 58(C137; R145), 60(C141; C143; R149; R151), 62, 63(R156), 67(R163; R164; R165), 68(C157; P110; R166), 69, 70, 71(R170; R171), 72, 74, 75(R175; R176), 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Costa Rica	31-56, 58-72, 74-92	-
Côte d'Ivoire	45-56, 58-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Croatia	80-85, 87	86, 88, 89, 90, 91, 92
Cuba	31-56, 58-72, 74-91	92
Cyprus	45-56, 58-72, 74-90, 92	91
Czech Republic	80-92	-
Democratic Republic of the Congo	45-56, 58-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Denmark	31-56, 58-72, 74-92	-
Djibouti	64-65, 67, 71-72, 83, 87	66, 68, 69, 70, 74, 75, 76, 77, 78, 79, 80, 81, 82, 84, 85, 86, 88, 89, 90, 91, 92
Dominica	68-72, 74-79, 87	80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Dominican Republic	31-56, 58-72, 74-92	-
Ecuador	31-56, 58-72, 74-88, 90(P155), 92	89, 90(R193; R194), 91

	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)
Egypt	31-56, 58-72, 74-92	-
El Salvador	31-56, 58-61, 63(C149), 64, 67(C155; C156; R164; R165), 69(C159; R168), 71-72, 74-81, 87, 90(P155)	62, 63(C148; R156; R157), 65, 66, 67(C154; R163), 68, 69(R167), 70, 82, 83, 84, 85, 86, 88, 89, 90(R193; R194), 91, 92
Equatorial Guinea	67-72, 74-79, 84, 87	80, 81, 82, 83, 85, 86, 88, 89, 90, 91, 92
Eritrea	80-91	92
Estonia	79-92	-
Ethiopia	31-56, 58-72, 74-87, 88(C183), 89	88(R191), 90, 91, 92
Fiji	59-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Finland	31-56, 58-72, 74-92	-
France	31-56, 58-72, 74-92	-
Gabon	45-56, 58-72, 75-81, 82(C176), 83(C177), 84(C179), 85(C181), 87, 89(C184), 91	74, 82(P081; R183), 83(R184), 84(C178; C180; P147; R185; R186; R187), 85(R188), 86, 88, 89(R192), 90, 92
Gambia	87	82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Georgia	85, 86-87	80, 81, 82, 83, 84, 88, 89, 90, 91, 92
Germany	34-56, 58-72, 74-76, 78-92	77
Ghana	40-56, 58-72, 74-79, 83, 84(C178; C179; C180; P147; R187), 85-87	80, 81, 82, 84(R185; R186), 88, 89, 90, 91, 92
Greece	31-56, 58-72, 74-92	-
Grenada	66-72, 74-80, 82(C176), 83(C177), 84(C178), 87	81, 82(P081; R183), 83(R184), 84(C179; C180; P147; R185; R186; R187), 85, 86, 88, 89, 90, 91, 92
Guatemala	31-56, 58-72, 74-92	-
Guinea	43-56, 58-72, 74-83, 87	84, 85, 86, 88, 89, 90, 91, 92

	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)
Guinea-Bissau	63-72, 74-82, 83(R184), 84-87, 88(R191)	83(C177), 88(C183), 89, 90, 91, 92
Guyana	50-56, 58-72, 74-92	-
Haiti	31-56, 58-66, 67(C156; R165), 69-72, 74, 75(C167)	67(C154; C155; R163; R164), 68, 75(C168; R175; R176), 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Honduras	39-56, 58-72, 74-92	-
Hungary	31-56, 58-72, 74-92	-
Iceland	31-56, 58-72, 74-92	-
India	31-56, 58-72, 74-92	-
Indonesia	33-56, 58-72, 74-92	-
Islamic Republic of Iran	31-56, 58-72, 74-83, 85, 87-89	84, 86, 90, 91, 92
Iraq	31-56, 58-72, 74-87, 89	88, 90, 91, 92
Ireland	31-56, 58-72, 74-87	88, 89, 90, 91, 92
Israel	32-56, 58-72, 74-92	-
Italy	31-56, 58-72, 74-92	-
Jamaica	47-56, 58-72, 74-91	92
Japan	35-56, 58-72, 74-92	-
Jordan	39-56, 58-72, 74-91	92
Kazakhstan	87	80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Kenya	48-56, 58-72, 74-81, 82(C176; R183), 83, 84(C178; C179; C180; R185; R186; R187), 85-87	82(P081), 84(P147), 88, 89, 90, 91, 92
Kiribati	-	88, 89, 90, 91, 92

	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)
Republic of Korea	79-89, 92	90, 91
Kuwait	45-56, 58-72, 74-76, 78-79, 80(C174), 81-85, 87-88, 90	77, 80(R181), 86, 89, 91, 92
Kyrgyzstan	87, 89	79, 80, 81, 82, 83, 84, 85, 86, 88, 90, 91, 92
Lao People's Democratic Republic	48-56, 58-72, 74-81, 87	82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Latvia	79-91	92
Lebanon	31-56, 58-72, 74-92	-
Lesotho	51-53, 66-72, 74-81, 82(C176; R183), 83-87	82(P081), 88, 89, 90, 91, 92
Liberia	31-56, 58-72, 74-76, 77(C170; C171; R177; R178), 78-81, 82(C176; R183), 83, 84(C178; C179; C180; R185; R186; R187), 85-87	77(P089), 82(P081), 84(P147), 88, 89, 90, 91, 92
Libyan Arab Jamahiriya	35-56, 58-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Lithuania	79-92	-
Luxembourg	31-56, 58-72, 74-92	-
Madagascar	45-54, 56, 58-68, 69(C159; R168), 70, 79, 87	55, 69(R167), 71, 72, 74, 75, 76, 77, 78, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Malawi	49-56, 58-72, 74-92	-
Malaysia	41-56, 58-72, 74-92	-
Mali	44-56, 58-72, 74-83, 84(C178; C179; C180; R185; R186; R187), 85, 87-89, 90(R193; R194), 91	84(P147), 86, 90(P155), 92
Malta	49-56, 58-72, 74-90	91, 92
Mauritania	45-56, 58-72, 74-80, 81(C175), 82(C176; R183), 83, 84(C178; C179; C180; R185; R186; R187), 85-91	81(R182), 82(P081), 84(P147), 92
Mauritius	53-56, 58-72, 74-92	-
Mexico	31-56, 58-72, 74-89, 90(P155; R194), 91	90(R193), 92

	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)
Republic of Moldova	79-91	92
Mongolia	52-56, 58-72, 74-81, 87-89	82, 83, 84, 85, 86, 90, 91, 92
Morocco	39-56, 58-72, 74-91	92
Mozambique	61-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Myanmar	31-56, 58-72, 74-92	-
Namibia	78-87, 89(C184), 90(R194)	88, 89(R192), 90(P155; R193), 91, 92
Nepal	51-56, 58-72, 74-81, 83, 85, 87	82, 84, 86, 88, 89, 90, 91, 92
Netherlands	31-56, 58-72, 74-92	-
New Zealand	31-56, 58-72, 74-92	-
Nicaragua	40-56, 58-72, 74-92	-
Niger	45-56, 58-72, 74-82, 87-88	83, 84, 85, 86, 89, 90, 91, 92
Nigeria	45-56, 58-72, 74-92	-
Norway	31-56, 58-72, 74-92	-
Oman	81-91	92
Pakistan	31-56, 58-72, 74-80, 87	81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Panama	31-56, 58-72, 74-87, 88(R191), 89(R192), 90(R193; R194), 92	88(C183), 89(C184), 90(P155), 91
Papua New Guinea	61-72, 74-87	88, 89, 90, 91, 92
Paraguay	40-56, 58-72, 74-84, 87	85, 86, 88, 89, 90, 91, 92
Peru	31-56, 58-72, 74-83, 84(C178; R186), 85-87	84(C179; C180; P147; R185; R187), 88, 89, 90, 91, 92
Philippines	31-56, 58-72, 74-92	-

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Poland	31-56, 58-72, 74-92	-
Portugal	31-56, 58-72, 74-92	-
Qatar	58-72, 74-92	-
Romania	39-56, 58-72, 74-92	-
Russian Federation	37-56, 58-72, 74-88	89, 90, 91, 92
Rwanda	47-56, 58-72, 74-79, 81, 87	80, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Saint Kitts and Nevis	87	83, 84, 85, 86, 88, 89, 90, 91, 92
Saint Lucia	67(C154; R163), 68(C158; R166), 87	66, 67(C155; C156; R164; R165), 68(C157; P110), 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Saint Vincent and the Grenadines	86, 87	82, 83, 84, 85, 88, 89, 90, 91, 92
San Marino	69-72, 74-92	-
Sao Tome and Principe	68-72, 74-76, 87, 89	77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 90, 91, 92
Saudi Arabia	61-72, 74-92	-
Senegal	44-56, 58-72, 74-78, 87	79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Serbia	89	90, 91, 92
Seychelles	63-72, 74-88	89, 90, 91, 92
Sierra Leone	45-56, 58-61, 62(C145; C147; R153; R155)	62(C146; R154), 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Singapore	50-56, 58-72, 74-90	91, 92
Slovakia	80-83, 86-92	84, 85
Slovenia	79-92	-

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)
Solomon Islands 74	70, 71, 72, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Somalia 45-56, 58-72, 74-75	76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
South Africa 31-50, 68, 74, 81-92	-
Spain 39-56, 58-62, 63(C148; R156), 64-72, 74-79, 82, 84(C180; R187), 85, 87	63(C149; R157), 80, 81, 83, 84(C178; C179; P147; R185; R186), 86, 88, 89, 90, 91, 92
Sri Lanka 31-56, 58-72, 74-89	90, 91, 92
Sudan 39-56, 58-72, 74-80, 87	81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Suriname 61-72, 74-89	90, 91, 92
Swaziland 60-72, 74-81, 82(C176; R183), 83-85, 87, 88(C183), 89(C184), 90(P155)	82(P081), 86, 88(R191), 89(R192), 90(R193; R194), 91, 92
Sweden 31-56, 58-72, 74-89	90, 91, 92
Switzerland 31-56, 58-72, 74-92	-
Syrian Arab Republic 31-56, 58-65, 67-68, 69(C159; R167), 71-72, 74-76, 77(C170; R177), 87-89	66, 69(R168), 70, 77(C171; P089; R178), 78, 79, 80, 81, 82, 83, 84, 85, 86, 90, 91, 92
Tajikistan 81-83, 86-87	84, 85, 88, 89, 90, 91, 92
United Republic of Tanzania 46-56, 58-65, 67, 68(C157; C158; R166), 69-72, 74-76, 77(C170; C171; R177; R178), 78-83, 84(C178; C179; C180; R185; R186; R187), 85-89, 91-92	66, 68(P110), 77(P089), 84(P147), 90
Thailand 31-56, 58-72, 74-91	92
The former Yugoslav Republic of Macedonia 80-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Timor-Leste -	92
Togo 44-56, 58-72, 74-87, 89	88, 90, 91, 92
Trinidad and Tobago 47-56, 58-72, 74-92	-

	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)
Tunisia	39-56, 58-72, 74-92	-
Turkey	31-56, 58-72, 74-92	-
Turkmenistan	-	81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Uganda	47-56, 58-72, 74-80, 87	81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Ukraine	37-56, 58-72, 74-90	91, 92
United Arab Emirates	58-72, 74-92	-
United Kingdom	31-56, 58-72, 74-92	-
United States	31-56, 58-60, 66-72, 74-92	-
Uruguay	31-56, 58-72, 74-85, 87, 89, 90(R194), 92	86, 88, 90(P155; R193), 91
Uzbekistan	-	80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Vanuatu	91	92
Bolivarian Republic of Venezuela	31-56, 58-72, 74(R173), 75(C167; R175), 76, 77(C170; R177), 78(R179), 80, 82(C176; R183), 87-88	74(C163; C164; C165; C166; R174), 75(C168; R176), 77(C171; P089; R178), 78(C172), 79, 81, 82(P081), 83, 84, 85, 86, 89, 90, 91, 92
Viet Nam	33-56, 58-63, 80-92	-
Yemen	49-56, 58-72, 74-87, 88(C183), 89(C184)	88(R191), 89(R192), 90, 91, 92
Zambia	49-56, 58-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Zimbabwe	66-72, 74-92	-

**Appendix VI. Overall position of member States with regard to
the submission to the competent authorities of
the instruments adopted by the Conference
(as of 8 December 2006)**

Sessions of the ILC	Number of States in which, according to the information supplied by the Government:			ILO Member States at the time of the session
	All the instruments have been submitted	Some of the instruments have been submitted	None of the instruments have been submitted	
<i>All the instruments adopted between the 31st and the 50th Sessions have been submitted to the competent authorities by member States</i>				
51st (June 1967)	116	1		117
52nd (June 1968)	117		1	118
53rd (June 1969)	120	1		121
54th (June 1970)	119	1		120
55th (October 1970)	116	1	3	120
56th (June 1971)	120			120
58th (June 1973)	121	2		123
59th (June 1974)	124		1	125
60th (June 1975)	123	1	2	126
61st (June 1976)	129		2	131
62nd (October 1976)	127	1	3	131
63rd (June 1977)	128	4	2	134
64th (June 1978)	132	2	1	135
65th (June 1979)	133		4	137
66th (June 1980)	135		7	142
67th (June 1981)	135	5	3	143
68th (June 1982)	137	4	6	147
69th (June 1983)	138	4	6	148
70th (June 1984)	139		10	149
71st (June 1985)	140	1	8	149
72nd (June 1986)	141		8	149
74th (September 1987)	139	1	9	149
75th (June 1988)	135	4	10	149
76th (June 1989)	135		12	147
77th (June 1990)	126	5	16	147
78th (June 1991)	129	2	18	149
79th (June 1992)	133	3	20	156
80th (June 1993)	136	2	29	167
81st (June 1994)	132	3	36	171
82nd (June 1995)	120	12	41	173
83rd (June 1996)	117	4	53	174
84th (October 1996)	105	15	54	174
85th (June 1997)	115	3	56	174
86th (June 1998)	108		66	174
87th (June 1999)	167		7	174
88th (May 2000)	95	7	73	175
89th (June 2001)	96	7	72	175
90th (June 2002)	78	9	88	175
91st (June 2003)	79		97	176
92nd (June 2004)	66		111	177

Appendix VII. Comments made by the Committee, by country

*The comments referred to below have been drawn up in the form of either "observations", which are reproduced in this report,
or "direct requests", which are not published but are communicated directly to the governments concerned.
This table also lists acknowledgements by the Committee of responses received to direct requests.*

Afghanistan	General Report, paragraph No. 72 Observations on Conventions Nos. 100, 111, 141 <i>Direct requests on Conventions Nos. 13, 41, 45, 137, 139, 140, 142</i> Observation on submission
Albania	General Report, paragraphs Nos. 32, 36, 84 General observation Observations on Conventions Nos. 144, 182 <i>Direct requests on Conventions Nos. 29, 100, 105, 111, 138, 178, 181, 182</i> <i>Direct request on submission</i>
Algeria	<i>General direct request</i> Observations on Conventions Nos. 32, 62, 87, 94, 100, 111, 119, 120, 138, 142 <i>Direct requests on Conventions Nos. 6, 74, 77, 78, 81, 95, 98, 99, 100, 108, 111, 127, 182</i> <i>Response received to a direct request on Convention No. 69</i>
Angola	General Report, paragraph No. 84 Observations on Conventions Nos. 26, 81, 98, 100 <i>Direct requests on Conventions Nos. 19, 81, 87, 100, 105, 138, 182</i> <i>Direct request on submission</i>
Antigua and Barbuda	General Report, paragraphs Nos. 32, 84 General observation Observations on Conventions Nos. 17, 87, 138 <i>Direct requests on Conventions Nos. 14, 81, 94, 101, 111</i> Observation on submission
Argentina	Observations on Conventions Nos. 87, 96, 111, 138, 169 <i>Direct requests on Conventions Nos. 13, 26, 95, 100, 111, 115, 159, 169, 182</i> <i>Response received to a direct request on Convention No. 90</i> Observation on submission
Armenia	General Report, paragraphs Nos. 32, 84 General observation Observation on submission
Australia	Observations on Conventions Nos. 87, 98, 100, 111 <i>Direct requests on Conventions Nos. 10, 11, 87, 92, 98, 99, 100, 111, 123, 131, 133, 173</i>
Austria	Observation on Convention No. 81 <i>Direct requests on Conventions Nos. 26, 99, 124, 138, 173, 182</i> <i>Response received to a direct request on Convention No. 6</i> <i>Direct request on submission</i>
Azerbaijan	Observations on Conventions Nos. 87, 98, 119, 138 <i>Direct requests on Conventions Nos. 11, 23, 32, 69, 77, 78, 79, 90, 92, 95, 105, 113, 115, 122, 124, 126, 131, 133, 135, 138, 142, 147, 160</i> <i>Response received to a direct request on Convention No. 134</i> Observation on submission
Bahamas	General Report, paragraph No. 36 Observation on Convention No. 98 <i>Direct requests on Conventions Nos. 22, 26, 29, 81, 94, 95, 100, 111, 138, 144, 182</i> Observation on submission
Bahrain	<i>General direct request</i> <i>Direct requests on Conventions Nos. 29, 182</i> <i>Direct request on submission</i>

Bangladesh	<i>General direct request</i> Observations on Conventions Nos. 11, 81, 87, 98, 111 <i>Direct requests on Conventions Nos. 81, 100, 111</i> Observation on submission
Barbados	Observations on Conventions Nos. 81, 87, 98, 115, 122, 144 <i>Direct requests on Conventions Nos. 26, 95, 100, 105, 111, 138, 147, 182</i>
Belarus	Observations on Conventions Nos. 87, 98, 144 <i>Direct requests on Conventions Nos. 32, 77, 78, 79, 90, 100, 111, 122, 124, 138, 150, 182</i>
Belgium	Observations on Conventions Nos. 87, 105 <i>Direct requests on Conventions Nos. 26, 94, 95, 98, 99, 100, 102, 111, 113, 114, 122, 125, 126, 138, 180, 182</i> <i>Response received to direct requests on Conventions Nos. 8, 77</i> <i>Direct request on submission</i>
Belize	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 87, 98 <i>Direct requests on Conventions Nos. 26, 81, 88, 94, 95, 98, 99, 100, 111, 115, 138, 141, 144, 150, 151, 154, 155, 156, 182</i> Observation on submission
Benin	<i>Direct requests on Conventions Nos. 6, 26, 95, 100, 111, 144, 160</i>
Bolivia	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 1, 30, 77, 78, 81, 88, 95, 96, 105, 111, 122, 129, 131, 136, 138, 159 <i>Direct requests on Conventions Nos. 87, 95, 98, 100, 105, 111, 120, 124, 138, 156, 162, 182</i> Observation on submission
Bosnia and Herzegovina	General Report, paragraphs Nos. 32, 84 General observation Observations on Conventions Nos. 87, 98, 111 <i>Direct requests on Conventions Nos. 24, 25, 56, 87, 88, 90, 100, 111, 122, 138, 140</i> Observation on submission
Botswana	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 87, 98, 144 <i>Direct requests on Conventions Nos. 29, 95, 100, 105, 138, 173, 176, 182</i> Observation on submission
Brazil	Observations on Conventions Nos. 88, 95, 98, 111, 115, 122, 137, 141 <i>Direct requests on Conventions Nos. 11, 95, 100, 111, 113, 119, 136, 170, 174</i> Observation on submission
Bulgaria	Observations on Conventions Nos. 87, 111, 120 <i>Direct requests on Conventions Nos. 29, 81, 98, 100, 105, 111, 146, 147, 166, 179</i>
Burkina Faso	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 6, 87, 98, 100, 129, 144, 182 <i>Direct requests on Conventions Nos. 6, 29, 87, 95, 100, 105, 111, 131, 138, 141, 159, 161, 170, 173, 182</i> Observation on submission
Burundi	<i>General direct request</i> Observations on Conventions Nos. 11, 62, 81, 94, 98, 111, 135, 144 <i>Direct requests on Conventions Nos. 26, 89, 100, 101, 111</i> Observation on submission

Cambodia	General Report, paragraphs Nos. 26, 36 General observation Observations on Conventions Nos. 87, 98, 122 <i>Direct requests on Conventions Nos. 4, 6, 13, 87, 100, 105, 111, 138</i> Observation on submission
Cameroon	Observations on Conventions Nos. 78, 81, 87, 94, 100, 111, 122, 158, 162 <i>Direct requests on Conventions Nos. 33, 77, 94, 95, 100, 108, 111, 131, 138, 146, 182</i> <i>Response received to a direct request on Convention No. 123</i> Observation on submission
Canada	Observation on Convention No. 87 <i>Direct requests on Conventions Nos. 100, 111, 162, 182</i> <i>Direct request on submission</i>
Cape Verde	General Report, paragraph No. 84 <i>General direct request</i> Observations on Conventions Nos. 81, 118 <i>Direct requests on Conventions Nos. 29, 100, 111, 118, 155, 182</i> Observation on submission
Central African Republic	Observations on Conventions Nos. 29, 81, 87, 94, 95, 98, 105 <i>Direct requests on Conventions Nos. 6, 26, 29, 99, 105, 138, 182</i> Observation on submission
Chad	Observations on Conventions Nos. 26, 29, 87, 111, 144 <i>Direct requests on Conventions Nos. 14, 29, 41, 95, 100, 105, 111, 132, 182</i> Observation on submission
Chile	Observations on Conventions Nos. 6, 22, 87, 98, 111, 121, 127 <i>Direct requests on Conventions Nos. 100, 111, 115, 122, 131, 136, 138, 144, 151, 159, 182</i> Observation on submission
China	Observations on Conventions Nos. 26, 122, 138, 182 <i>Direct requests on Conventions Nos. 22, 26, 100, 138, 167, 182</i> Observation on Convention No. 182 <i>Direct requests on Conventions Nos. 122, 138, 148, 182</i> <i>Direct requests on Conventions Nos. 26, 88, 92, 100, 111, 122, 138, 182</i>
Hong Kong Special Administrative Region Macau Special Administrative Region	
Colombia	Observations on Conventions Nos. 81, 87, 95, 98, 100, 151, 154, 169 <i>Direct requests on Conventions Nos. 6, 81, 100, 111, 129</i> Observation on submission
Comoros	General Report, paragraphs Nos. 36, 84 General observation Observations on Conventions Nos. 26, 29, 81, 95, 98, 99, 122 <i>Direct requests on Conventions Nos. 13, 52, 77, 78, 95, 100, 105</i> Observation on submission
Congo	General Report, paragraphs Nos. 26, 36, 84 General observation Observations on Conventions Nos. 29, 87, 95, 182 <i>Direct requests on Conventions Nos. 6, 26, 81, 98, 100, 105, 111, 138, 144, 149, 152</i> Observation on submission
Costa Rica	Observations on Conventions Nos. 81, 88, 94, 95, 98, 122, 129, 141, 159 <i>Direct requests on Conventions Nos. 81, 96, 100, 111, 113, 114, 127, 131</i>
Côte d'Ivoire	General Report, paragraph No. 32 General observation Observations on Conventions Nos. 87, 96, 98, 182 <i>Direct requests on Conventions Nos. 3, 13, 26, 45, 95, 99, 100, 111, 136, 144, 159, 182</i> Observation on submission

Croatia	Observations on Conventions Nos. 87, 98, 111 <i>Direct requests on Conventions Nos. 32, 90, 100, 111, 113, 138, 148, 161, 182</i> Observation on submission
Cuba	Observations on Conventions Nos. 87, 98, 148 <i>Direct requests on Conventions Nos. 77, 78, 79, 81, 90, 95, 113, 131, 138</i> <i>Direct request on submission</i>
Cyprus	General Report, paragraph No. 36 Observations on Conventions Nos. 87, 95, 98, 105, 111, 162 <i>Direct requests on Conventions Nos. 19, 90, 94, 111, 114, 119, 122, 138, 155, 162, 182</i> <i>Direct request on submission</i>
Czech Republic	Observations on Conventions Nos. 98, 100, 122, 182 <i>Direct requests on Conventions Nos. 17, 26, 42, 77, 78, 87, 90, 95, 99, 100, 123, 124, 148, 155, 167, 181, 182</i> <i>Response received to direct requests on Conventions Nos. 5, 10, 102, 128, 130</i>
Democratic Republic of the Congo	General Report, paragraph No. 84 <i>General direct request</i> Observations on Conventions Nos. 87, 94, 98, 102, 119, 121, 144, 182 <i>Direct requests on Conventions Nos. 26, 62, 87, 95, 98, 100, 105, 111, 117, 138, 158, 182</i> Observation on submission
Denmark	Observations on Conventions Nos. 87, 98, 129 <i>Direct requests on Conventions Nos. 87, 94, 100, 102, 111, 138, 139, 155, 167, 182</i> <i>Response received to a direct request on Convention No. 119</i>
Faeroe Islands	General Report, paragraph No. 26
Greenland	General observation General observation <i>Direct requests on Conventions Nos. 5, 6, 122</i>
Djibouti	General Report, paragraphs Nos. 36, 84 <i>General direct request</i> Observations on Conventions Nos. 26, 87, 88, 94, 95, 96, 98, 115, 120, 122 <i>Direct requests on Conventions Nos. 23, 29, 63, 81, 99, 105, 125</i> Observation on submission
Dominica	General Report, paragraphs Nos. 32, 36 General observation Observations on Conventions Nos. 29, 87, 138 <i>Direct requests on Conventions Nos. 16, 26, 29, 81, 95, 100, 105</i> Observation on submission
Dominican Republic	General Report, paragraph No. 84 Observations on Conventions Nos. 77, 87, 98, 100, 111, 138, 182 <i>Direct requests on Conventions Nos. 26, 29, 88, 95, 111, 119, 122, 138, 159, 167, 182</i>
Ecuador	Observations on Conventions Nos. 77, 78, 81, 87, 95, 98, 111, 122, 131, 136, 139, 142, 148, 159, 169, 182 <i>Direct requests on Conventions Nos. 88, 95, 100, 111, 112, 113, 114, 119, 123, 124, 138, 169, 182</i> <i>Direct request on submission</i>
Egypt	Observations on Conventions Nos. 9, 81, 87, 94, 95, 98, 148 <i>Direct requests on Conventions Nos. 62, 81, 129, 131, 138, 148, 182</i>
El Salvador	Observations on Conventions Nos. 81, 111, 122, 129, 138, 141, 159, 182 <i>Direct requests on Conventions Nos. 77, 78, 81, 88, 99, 100, 111, 129, 131, 138, 156, 182</i> Observation on submission
Equatorial Guinea	General Report, paragraphs Nos. 32, 36 General observation Observations on Conventions Nos. 87, 98 <i>Direct requests on Conventions Nos. 29, 100, 105, 111, 138, 182</i> Observation on submission

Eritrea	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 87, 98, 111 <i>Direct requests on Conventions Nos. 29, 100, 105, 111, 138</i> <i>Direct request on submission</i>
Estonia	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 87, 98 <i>Direct requests on Conventions Nos. 5, 6, 11, 29, 105, 122, 182</i>
Ethiopia	Observations on Conventions Nos. 87, 98, 181 <i>Direct requests on Conventions Nos. 138, 156, 181, 182</i> <i>Direct request on submission</i>
Fiji	Observations on Conventions Nos. 87, 98, 169 <i>Direct requests on Conventions Nos. 26, 138, 169, 182</i> Observation on submission
Finland	Observations on Conventions Nos. 100, 122 <i>Direct requests on Conventions Nos. 13, 88, 94, 100, 111, 119, 120, 141, 148, 155, 161, 167, 173, 178, 182</i>
France	Observations on Conventions Nos. 81, 88, 94, 96, 118, 122, 129, 156 <i>Direct requests on Conventions Nos. 29, 35, 36, 42, 62, 96, 98, 102, 118, 125, 139, 148, 156, 182</i> <i>Response received to a direct request on Convention No. 90</i>
French Guiana	<i>General direct request</i> Observations on Conventions Nos. 94, 120 <i>Direct requests on Conventions Nos. 62, 81, 95, 100, 111, 112, 113, 125, 131, 141</i> <i>Response received to a direct request on Convention No. 10</i>
French Polynesia	Observations on Conventions Nos. 81, 115, 129 <i>Direct requests on Conventions Nos. 13, 94, 120, 126, 127, 129</i> <i>Response received to direct requests on Conventions Nos. 5, 77, 78</i>
French Southern and Antarctic Territories	<i>General direct request</i> <i>Direct request on Convention No. 87</i>
Guadeloupe	Observations on Conventions Nos. 94, 115, 129, 136 <i>Direct requests on Conventions Nos. 45, 62, 95, 100, 111, 112, 113, 125, 129, 131, 136</i>
Martinique	General Report, paragraph No. 36 <i>General direct request</i> Observation on Convention No. 94 <i>Direct requests on Conventions Nos. 62, 81, 112, 113, 125, 129, 131</i>
New Caledonia	Observation on Convention No. 127 <i>Direct requests on Conventions Nos. 77, 78, 94, 122, 125, 126</i> <i>Response received to direct requests on Conventions Nos. 5, 10, 33</i>
Réunion	Observations on Conventions Nos. 81, 94, 129 <i>Direct requests on Conventions Nos. 62, 95, 112, 113, 125, 131</i> <i>Response received to a direct request on Convention No. 5</i>
St. Pierre and Miquelon	Observation on Convention No. 94 <i>Direct requests on Conventions Nos. 81, 95, 125, 129, 131</i> <i>Response received to a direct request on Convention No. 5</i>
Gabon	Observations on Conventions Nos. 29, 87, 123, 158, 182 <i>Direct requests on Conventions Nos. 3, 26, 95, 98, 99, 105, 124, 182</i> <i>Response received to direct requests on Conventions Nos. 5, 10, 33</i> Observation on submission
Gambia	General Report, paragraph No. 32 General observation Observation on Convention No. 98 <i>Direct request on Convention No. 87</i> Observation on submission

Georgia	Observations on Conventions Nos. 87, 98, 138 <i>Direct requests on Conventions Nos. 87, 98, 117, 122, 138, 142, 182</i> Observation on submission
Germany	Observations on Conventions Nos. 87, 88, 98, 111, 118, 122, 167 <i>Direct requests on Conventions Nos. 100, 102, 111, 113, 125, 126, 128, 130, 139, 148, 161, 167, 182</i> <i>Response received to a direct request on Convention No. 121</i>
Ghana	Observations on Conventions Nos. 87, 94, 96, 98, 105, 115, 117 <i>Direct requests on Conventions Nos. 1, 26, 45, 59, 87, 88, 100, 105, 111, 120, 148, 182</i> Observation on submission
Greece	Observations on Conventions Nos. 92, 95, 100, 111, 133 <i>Direct requests on Conventions Nos. 92, 100, 102, 111, 115, 126, 133, 136, 156, 182</i> <i>Response received to direct requests on Conventions Nos. 78, 81</i>
Grenada	General Report, paragraph No. 36 Observations on Conventions Nos. 99, 100, 144 <i>Direct requests on Conventions Nos. 14, 26, 81, 87, 94, 95, 100, 111, 138, 182</i> Observation on submission
Guatemala	Observations on Conventions Nos. 11, 13, 87, 94, 98, 100, 111, 119, 122, 127, 131, 138, 144, 169, 182 <i>Direct requests on Conventions Nos. 59, 77, 78, 95, 100, 111, 112, 113, 114, 117, 138, 141, 156, 159, 161, 167, 169, 182</i>
Guinea	General Report, paragraphs Nos. 36, 84 Observations on Conventions Nos. 26, 87, 94, 98, 99, 115, 118, 119, 120, 121, 122, 134, 139 <i>Direct requests on Conventions Nos. 13, 62, 90, 95, 113, 118, 133, 136, 138, 140, 148, 156, 182</i> Observation on submission
Guinea-Bissau	Observations on Conventions Nos. 69, 98 <i>Direct requests on Conventions Nos. 26, 74, 88, 91, 100, 111</i> Observation on submission
Guyana	General Report, paragraph No. 84 Observations on Conventions Nos. 87, 98, 100, 111 <i>Direct requests on Conventions Nos. 2, 45, 94, 95, 100, 111, 115, 131, 136, 138, 139, 144, 166, 182</i>
Haiti	General Report, paragraphs Nos. 36, 72 <i>General direct request</i> Observations on Conventions Nos. 81, 87, 98 <i>Direct requests on Conventions Nos. 5, 45, 77, 78</i> Observation on submission
Honduras	Observations on Conventions Nos. 81, 87, 98 <i>Direct requests on Conventions Nos. 32, 78, 81, 95, 122</i>
Hungary	Observations on Conventions Nos. 98, 111 <i>Direct requests on Conventions Nos. 77, 78, 87, 95, 100, 111, 115, 122, 127, 138, 139, 148, 155, 161, 167, 181, 182</i>
Iceland	Observation on Convention No. 144 <i>Direct requests on Conventions Nos. 138, 147, 155, 182</i> Observation on submission
India	Observations on Conventions Nos. 5, 11, 26, 90, 111, 141 <i>Direct requests on Conventions Nos. 32, 105, 122</i>
Indonesia	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 87, 98, 100, 111, 182 <i>Direct requests on Conventions Nos. 100, 111, 138, 182</i>

Islamic Republic of Iran	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 95, 122 <i>Direct requests on Conventions Nos. 29, 100, 182</i> Observation on submission
Iraq	General Report, paragraphs Nos. 26, 32, 36 General observation Observations on Conventions Nos. 13, 95, 98, 115 <i>Direct requests on Conventions Nos. 22, 23, 94, 108, 120, 136, 147, 167</i>
Ireland	<i>Direct requests on Conventions Nos. 26, 98, 99, 100, 102, 111, 138, 147, 155, 178, 179, 180, 182</i> <i>Direct request on submission</i>
Israel	Observation on Convention No. 87 <i>Direct requests on Conventions Nos. 77, 78, 79, 94, 95, 98, 138</i>
Italy	Observations on Conventions Nos. 118, 122, 136, 139, 181 <i>Direct requests on Conventions Nos. 77, 78, 79, 90, 100, 108, 111, 118, 119, 138, 146, 159, 170, 182</i>
Jamaica	Observations on Conventions Nos. 29, 87, 98 <i>Direct requests on Conventions Nos. 26, 81, 94, 111, 138, 182</i> <i>Direct request on submission</i>
Japan	Observations on Conventions Nos. 29, 87, 98, 100, 156 <i>Direct requests on Conventions Nos. 29, 81, 131, 138, 182</i>
Jordan	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 98, 100, 111, 119, 120, 122 <i>Direct requests on Conventions Nos. 29, 81, 100, 105, 111, 138, 144, 150, 159, 182</i> <i>Direct request on submission</i>
Kazakhstan	General Report, paragraphs Nos. 36, 84 <i>General direct request</i> Observations on Conventions Nos. 87, 98 <i>Direct requests on Conventions Nos. 88, 100, 105, 111, 122, 135, 138, 144, 155, 182</i> Observation on submission
Kenya	Observations on Conventions Nos. 17, 81, 98, 129, 140 <i>Direct requests on Conventions Nos. 19, 98, 100, 111, 132, 134, 144, 146</i> <i>Response received to a direct request on Convention No. 118</i> Observation on submission
Kiribati	General Report, paragraphs Nos. 36, 84 <i>General direct request</i> <i>Direct requests on Conventions Nos. 87, 98</i> <i>Direct request on submission</i>
Republic of Korea	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 26, 81, 111, 131, 150, 160 <i>Direct requests on Conventions Nos. 19, 26, 81, 100, 111, 122, 131, 144, 150, 156, 160, 170, 182</i> <i>Direct request on submission</i>
Kuwait	Observations on Conventions Nos. 81, 87 <i>Direct requests on Conventions Nos. 81, 119, 136, 144</i> <i>Direct request on submission</i>
Kyrgyzstan	General Report, paragraphs Nos. 32, 36, 84 General observation Observations on Conventions Nos. 122, 160 <i>Direct requests on Conventions Nos. 14, 52, 77, 78, 79, 81, 87, 98, 100, 124, 148, 149</i> Observation on submission

Lao People's Democratic Republic	<p><i>General direct request</i></p> <p><i>Direct request on Convention No. 13</i></p> <p>Observation on submission</p>
Latvia	<p>Observations on Conventions Nos. 81, 87, 98, 111</p> <p><i>Direct requests on Conventions Nos. 17, 18, 24, 87, 98, 100, 108, 111, 129, 144, 158, 160</i></p> <p><i>Response received to a direct request on Convention No. 12</i></p> <p><i>Direct request on submission</i></p>
Lesotho	<p><i>General direct request</i></p> <p>Observations on Conventions Nos. 87, 98, 144</p> <p><i>Direct requests on Conventions Nos. 81, 87, 100, 111, 138, 158, 182</i></p> <p><i>Direct request on submission</i></p>
Liberia	<p>General Report, paragraphs Nos. 26, 32, 36, 84</p> <p>General observation</p> <p>Observations on Conventions Nos. 22, 55, 58, 87, 92, 98, 105, 111, 112, 113, 114, 133</p> <p><i>Direct requests on Conventions Nos. 53, 147</i></p> <p>Observation on submission</p>
Libyan Arab Jamahiriya	<p>Observations on Conventions Nos. 95, 98</p> <p><i>Direct requests on Conventions Nos. 14, 87, 89</i></p> <p>Observation on submission</p>
Lithuania	<p>Observations on Conventions Nos. 87, 100, 111</p> <p><i>Direct requests on Conventions Nos. 19, 87, 98, 100, 111, 183</i></p> <p><i>Response received to a direct request on Convention No. 24</i></p>
Luxembourg	<p>Observation on Convention No. 108</p> <p><i>Direct requests on Conventions Nos. 8, 55, 56, 69, 87, 92, 108, 130, 138, 147, 150, 166, 182</i></p> <p><i>Response received to direct requests on Conventions Nos. 22, 53, 98</i></p>
Madagascar	<p>Observations on Conventions Nos. 87, 98, 100, 129</p> <p><i>Direct requests on Conventions Nos. 13, 26, 41, 95, 100, 129, 132, 138, 144</i></p> <p>Observation on submission</p>
Malawi	<p>General Report, paragraph No. 36</p> <p><i>General direct request</i></p> <p>Observations on Conventions Nos. 81, 87, 100, 111, 129, 138, 144</p> <p><i>Direct requests on Conventions Nos. 19, 81, 87, 98, 100, 111, 129, 138, 158, 182</i></p> <p>Observation on submission</p>
Malaysia	<p><i>General direct request</i></p> <p>Observations on Conventions Nos. 98, 100</p> <p><i>Direct request on Convention No. 100</i></p>
Peninsular Malaysia	<p>Observations on Conventions Nos. 17, 19</p> <p><i>Direct request on Convention No. 17</i></p> <p><i>Response received to a direct request on Convention No. 12</i></p>
Sarawak	<p>Observation on Convention No. 19</p> <p><i>Response received to a direct request on Convention No. 12</i></p>
Mali	<p>Observation on Convention No. 87</p> <p><i>Direct requests on Conventions Nos. 19, 87, 100, 111, 141</i></p> <p><i>Response received to a direct request on Convention No. 18</i></p> <p>Observation on submission</p>
Malta	<p>General Report, paragraph No. 36</p> <p>Observations on Conventions Nos. 87, 98, 100, 111, 127, 136</p> <p><i>Direct requests on Conventions Nos. 16, 22, 53, 73, 87, 98, 100, 111, 119, 127, 136, 138, 180, 182</i></p> <p><i>Response received to a direct request on Convention No. 74</i></p> <p><i>Direct request on submission</i></p>
Mauritania	<p>Observations on Conventions Nos. 29, 81, 87, 111</p> <p><i>Direct requests on Conventions Nos. 29, 81, 87, 98, 100, 105, 111, 112, 114</i></p> <p><i>Response received to a direct request on Convention No. 17</i></p> <p><i>Direct request on submission</i></p>

Mauritius	Observations on Conventions Nos. 17, 19, 42, 98 <i>Direct requests on Conventions Nos. 87, 137, 144, 150, 160</i>
Mexico	Observations on Conventions Nos. 9, 22, 29, 87, 102, 134, 150, 166, 169 <i>Direct requests on Conventions Nos. 17, 53, 102, 112, 115, 144, 150, 160, 163, 164, 170</i> <i>Direct request on submission</i>
Republic of Moldova	Observations on Conventions Nos. 81, 87, 98, 111 <i>Direct requests on Conventions Nos. 81, 87, 100, 111, 127, 129, 144</i> <i>Direct request on submission</i>
Mongolia	<i>General direct request</i> <i>Direct requests on Conventions Nos. 87, 98, 100, 111, 122, 144</i> Observation on submission
Morocco	Observations on Conventions Nos. 11, 100, 111, 179 <i>Direct requests on Conventions Nos. 11, 17, 19, 22, 42, 98, 100, 111, 158, 180</i> <i>Response received to a direct request on Convention No. 12</i> <i>Direct request on submission</i>
Mozambique	Observation on Convention No. 87 <i>Direct requests on Conventions Nos. 29, 87, 98, 105, 111</i> Observation on submission
Myanmar	<i>General direct request</i> Observations on Conventions Nos. 2, 17, 26, 29, 87 <i>Direct request on Convention No. 42</i>
Namibia	<i>General direct request</i> Observation on Convention No. 98 <i>Direct request on Convention No. 144</i> <i>Direct request on submission</i>
Nepal	Observations on Conventions Nos. 98, 144 Observation on submission
Netherlands	Observations on Conventions Nos. 87, 98, 128, 160 <i>Direct requests on Conventions Nos. 113, 114, 160</i>
Aruba	Observations on Conventions Nos. 87, 135, 144 <i>Direct requests on Conventions Nos. 87, 113, 138, 145</i> <i>Response received to a direct request on Convention No. 147</i>
Netherlands Antilles	<i>Direct requests on Conventions Nos. 9, 22, 23, 69, 74, 87, 122</i>
New Zealand	Observations on Conventions Nos. 9, 22, 145, 160 <i>Direct requests on Conventions Nos. 22, 29, 74, 81, 134</i>
Nicaragua	Observations on Conventions Nos. 12, 87, 98, 144 <i>Direct requests on Conventions Nos. 17, 24, 25, 29, 136, 139</i>
Niger	Observations on Conventions Nos. 81, 87, 182 <i>Direct requests on Conventions Nos. 98, 119, 138, 182</i> Observation on submission
Nigeria	Observations on Conventions Nos. 87, 88, 98, 144 <i>Direct requests on Conventions Nos. 8, 19, 100, 111</i>
Norway	Observations on Conventions Nos. 81, 87, 129, 144, 168 <i>Direct requests on Conventions Nos. 8, 53, 68, 100, 113, 126, 147, 156, 160, 167, 168, 176, 178, 180</i> <i>Response received to direct requests on Conventions Nos. 119, 130</i>
Oman	Observation on Convention No. 182 <i>Direct request on Convention No. 182</i> <i>Direct request on submission</i>
Pakistan	Observations on Conventions Nos. 11, 87, 96, 98, 107 <i>Direct requests on Conventions Nos. 16, 22, 87, 107</i> Observation on submission

Panama	Observations on Conventions Nos. 68, 81, 87, 98, 100, 111 <i>Direct requests on Conventions Nos. 9, 22, 23, 53, 68, 69, 74, 87, 92, 100, 108, 113, 114, 122, 127, 160</i> <i>Direct request on submission</i>
Papua New Guinea	General Report, paragraph No. 36 <i>General direct request</i> Observation on Convention No. 98 <i>Direct requests on Conventions Nos. 87, 100, 111, 122, 158</i> Observation on submission
Paraguay	Observations on Conventions Nos. 79, 81, 87, 90, 98, 111, 115, 117, 119, 120, 169 <i>Direct requests on Conventions Nos. 1, 30, 52, 89, 100, 105, 111, 122, 159, 169</i> Observation on submission
Peru	Observations on Conventions Nos. 44, 55, 56, 71, 81, 87, 98, 102, 139 <i>Direct requests on Conventions Nos. 23, 56, 69, 81, 87, 98, 102, 112, 113, 114, 139, 151</i> Observation on submission
Philippines	Observations on Conventions Nos. 87, 98 <i>Direct requests on Conventions Nos. 17, 87, 141, 144, 157</i> <i>Response received to a direct request on Convention No. 23</i>
Poland	Observations on Conventions Nos. 87, 111 <i>Direct requests on Conventions Nos. 91, 98, 100, 102, 111, 144, 147</i>
Portugal	Observations on Conventions Nos. 81, 87, 98, 102, 129, 158 <i>Direct requests on Conventions Nos. 17, 18, 81, 98, 100, 102, 111, 127, 144, 160</i>
Qatar	Observations on Conventions Nos. 111, 182 <i>Direct requests on Conventions Nos. 111, 182</i>
Romania	Observations on Conventions Nos. 87, 95, 98 <i>Direct requests on Conventions Nos. 9, 87, 108, 144, 163, 180</i>
Russian Federation	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 29, 87, 95, 98, 122, 160, 182 <i>Direct requests on Conventions Nos. 29, 69, 81, 92, 100, 111, 113, 115, 126, 133, 156, 160, 182</i> <i>Direct request on submission</i>
Rwanda	Observations on Conventions Nos. 81, 87, 98 <i>Direct requests on Conventions Nos. 11, 81, 87, 98</i> Observation on submission
Saint Kitts and Nevis	General Report, paragraphs Nos. 26, 32, 36 General observation <i>Direct requests on Conventions Nos. 29, 105, 111, 144, 182</i> Observation on submission
Saint Lucia	General Report, paragraphs Nos. 26, 32, 36 General observation Observation on Convention No. 17 <i>Direct requests on Conventions Nos. 7, 8, 14, 19, 87, 100, 108, 111</i> Observation on submission
Saint Vincent and the Grenadines	<i>General direct request</i> Observation on Convention No. 16 <i>Direct requests on Conventions Nos. 87, 98, 100, 105, 111, 182</i> Observation on submission
San Marino	General Report, paragraphs Nos. 26, 36 General observation <i>Direct requests on Conventions Nos. 29, 88, 100, 119, 142, 148, 156, 160, 182</i>

Sao Tome and Principe	General Report, paragraphs Nos. 26, 36, 84 General observation Observations on Conventions Nos. 18, 81, 87, 88, 144 <i>Direct requests on Conventions Nos. 17, 19, 81, 98, 100, 111, 159</i> Observation on submission
Saudi Arabia	Observation on Convention No. 111 <i>Direct requests on Conventions Nos. 81, 100</i>
Senegal	Observations on Conventions Nos. 13, 87, 111, 120, 121 <i>Direct requests on Conventions Nos. 19, 98, 100, 102, 125, 182</i> Observation on submission
Serbia	General Report, paragraph No. 32 General observation Observations on Conventions Nos. 87, 98, 111 <i>Direct requests on Conventions Nos. 12, 87, 88, 100, 111, 121, 122, 126, 156, 158, 159</i> <i>Direct request on submission</i>
Seychelles	Observations on Conventions Nos. 8, 87 <i>Direct requests on Conventions Nos. 22, 98, 150</i> <i>Response received to a direct request on Convention No. 108</i> <i>Direct request on submission</i>
Sierra Leone	General Report, paragraphs Nos. 36, 72, 84 <i>General direct request</i> Observations on Conventions Nos. 17, 98, 111, 125, 144 <i>Direct requests on Conventions Nos. 87, 95, 100, 126</i> Observation on submission
Singapore	Observation on Convention No. 81 <i>Direct requests on Conventions Nos. 8, 22, 81</i> <i>Direct request on submission</i>
Slovakia	Observations on Conventions Nos. 98, 122, 144 <i>Direct requests on Conventions Nos. 17, 34, 42, 87, 88, 115, 136, 139, 155, 156, 176</i> <i>Response received to a direct request on Convention No. 12</i>
Slovenia	Observations on Conventions Nos. 111, 158 <i>Direct requests on Conventions Nos. 9, 22, 23, 32, 56, 74, 81, 87, 98, 100, 111, 113, 119, 121, 129, 161</i>
Solomon Islands	General Report, paragraphs Nos. 72, 84 <i>General direct request</i> <i>Direct request on Convention No. 81</i> Observation on submission
Somalia	General Report, paragraphs Nos. 72, 84 <i>General direct request</i> Observation on submission
South Africa	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 87, 98 <i>Direct requests on Conventions Nos. 63, 144</i> <i>Response received to a direct request on Convention No. 42</i>
Spain	Observations on Conventions Nos. 68, 87, 92, 102, 111, 115, 155 <i>Direct requests on Conventions Nos. 9, 22, 53, 55, 62, 68, 69, 74, 97, 100, 102, 108, 111, 113, 114, 126, 134, 136, 147, 156, 157, 158, 160, 162, 180, 181</i> <i>Direct request on submission</i>
Sri Lanka	Observations on Conventions Nos. 81, 87, 98, 100, 108, 111, 182 <i>Direct requests on Conventions Nos. 11, 100, 108, 111, 138, 144, 160, 182</i> <i>Direct request on submission</i>

Sudan	Observations on Conventions Nos. 81, 95, 98, 122, 182 <i>Direct requests on Conventions Nos. 138, 182</i> Observation on submission
Suriname	Observations on Conventions Nos. 17, 42, 118 <i>Direct requests on Conventions Nos. 112, 144</i> <i>Direct request on submission</i>
Swaziland	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 87, 96, 98, 144 <i>Direct requests on Conventions Nos. 11, 87, 100, 111, 138, 160</i> Observation on submission
Sweden	Observations on Conventions Nos. 121, 155, 160, 180 <i>Direct requests on Conventions Nos. 13, 118, 119, 120, 121, 129, 139, 145, 148, 155, 157, 158, 161, 167, 174, 180, 182</i> <i>Response received to a direct request on Convention No. 150</i> <i>Direct request on submission</i>
Switzerland	Observations on Conventions Nos. 98, 102, 128, 144, 160 <i>Direct requests on Conventions Nos. 87, 102, 160, 163, 168</i>
Syrian Arab Republic	<i>General direct request</i> Observations on Conventions Nos. 87, 98, 129 <i>Direct requests on Conventions Nos. 129, 144, 182</i> Observation on submission
Tajikistan	General Report, paragraphs Nos. 36, 84 <i>General direct request</i> Observations on Conventions Nos. 87, 122 <i>Direct requests on Conventions Nos. 11, 98, 100, 126, 142, 159</i> Observation on submission
United Republic of Tanzania	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 17, 144, 149 <i>Direct requests on Conventions Nos. 12, 16, 17, 63, 87, 94, 98, 100, 111, 138, 170</i> Observation on submission
Tanganyika	<i>General direct request</i> <i>Direct request on Convention No. 108</i>
Thailand	<i>General direct request</i> Observations on Conventions Nos. 88, 122 <i>Direct request on Convention No. 100</i> <i>Direct request on submission</i>
The former Yugoslav Republic of Macedonia	General Report, paragraphs Nos. 26, 32, 36, 84 General observation Observations on Conventions Nos. 87, 98 <i>Direct request on Convention No. 87</i> Observation on submission
Timor-Leste	<i>Direct request on submission</i>
Togo	General Report, paragraphs Nos. 26, 36, 84 General observation Observations on Conventions Nos. 87, 98, 144 <i>Direct requests on Conventions Nos. 29, 100, 105, 111, 138, 182</i> <i>Direct request on submission</i>
Trinidad and Tobago	General Report, paragraph No. 36 <i>General direct request</i> Observations on Conventions Nos. 87, 98, 100, 111, 125 <i>Direct requests on Conventions Nos. 19, 100, 111, 144, 147, 182</i> <i>Response received to a direct request on Convention No. 16</i>

Tunisia	Observations on Conventions Nos. 87, 111, 127 <i>Direct requests on Conventions Nos. 18, 81, 98, 100, 111, 113, 114, 150</i>
Turkey	Observations on Conventions Nos. 81, 87, 98 <i>Direct requests on Conventions Nos. 11, 87, 98, 102, 115, 151</i>
Turkmenistan	General Report, paragraphs Nos. 26, 32, 72, 84 General observation Observation on submission
Uganda	General Report, paragraphs Nos. 32, 36, 84 General observation <i>General direct request</i> Observations on Conventions Nos. 26, 98, 143, 158, 159, 162 <i>Direct requests on Conventions Nos. 11, 87, 94, 122, 123, 144</i> Observation on submission
Ukraine	Observations on Conventions Nos. 87, 95, 98, 119, 160 <i>Direct requests on Conventions Nos. 23, 69, 87, 92, 108, 120, 133, 140, 147, 159, 160</i> <i>Direct request on submission</i>
United Arab Emirates	<i>Direct request on Convention No. 81</i>
United Kingdom	Observations on Conventions Nos. 17, 42, 81, 87, 98, 100, 111, 144 <i>Direct requests on Conventions Nos. 42, 68, 87, 100, 111, 126, 160, 178</i> <i>Response received to a direct request on Convention No. 24</i>
Anguilla	General Report, paragraph No. 36 General observation Observations on Conventions Nos. 8, 17 <i>Direct requests on Conventions Nos. 22, 23, 29</i>
Bermuda	Observations on Conventions Nos. 12, 17, 147 <i>Direct requests on Conventions Nos. 19, 23, 98, 147</i> <i>Direct requests on Conventions Nos. 8, 85</i>
British Virgin Islands	Observation on Convention No. 8
Falkland Islands (Malvinas)	<i>Direct requests on Conventions Nos. 81, 133, 147, 160</i>
Gibraltar	Observation on Convention No. 98 <i>Direct requests on Conventions Nos. 17, 182</i> <i>Response received to direct requests on Conventions Nos. 24, 25</i>
Guernsey	Observations on Conventions Nos. 69, 92, 98 <i>Direct requests on Conventions Nos. 22, 68</i>
Isle of Man	Observation on Convention No. 81 <i>Direct requests on Conventions Nos. 17, 42, 81, 87, 98, 160</i>
Jersey	General Report, paragraphs Nos. 26, 36 General observation Observation on Convention No. 8 <i>Direct requests on Conventions Nos. 14, 26, 29, 95, 98</i>
Montserrat	General Report, paragraphs Nos. 26, 36 General observation Observation on Convention No. 8 <i>Direct requests on Conventions Nos. 17, 29, 108</i>
St. Helena	General Report, paragraphs Nos. 26, 36 General observation <i>Direct requests on Conventions Nos. 17, 29, 108</i>
United States	Observations on Conventions Nos. 105, 144, 182 <i>Direct requests on Conventions Nos. 105, 160</i>
Uruguay	Observations on Conventions Nos. 9, 22, 81, 98, 100, 111, 129, 133, 134, 150 <i>Direct requests on Conventions Nos. 23, 29, 32, 63, 81, 100, 111, 113, 114, 129, 131, 136, 138, 150, 156, 161, 181, 182</i> <i>Direct request on submission</i>
Uzbekistan	General Report, paragraphs Nos. 26, 36, 72, 84 General observation <i>Direct requests on Conventions Nos. 29, 98, 100, 105, 111, 122</i> Observation on submission
Vanuatu	<i>Direct request on submission</i>

Bolivarian Republic of Venezuela	Observations on Conventions Nos. 3, 29, 81, 87, 98, 127, 144 <i>Direct requests on Conventions Nos. 3, 13, 81, 127, 139</i> Observation on submission
Viet Nam	<i>General direct request</i> <i>Direct request on Convention No. 182</i>
Yemen	Observations on Conventions Nos. 81, 87, 98, 111 <i>Direct requests on Conventions Nos. 19, 100, 111, 122, 131, 144, 158, 159</i> <i>Response received to a direct request on Convention No. 58</i> <i>Direct request on submission</i>
Zambia	Observations on Conventions Nos. 87, 95, 117, 122, 144 <i>Direct requests on Conventions Nos. 11, 17, 98, 100, 103, 111, 136, 149, 158, 159, 173, 176</i> Observation on submission
Zimbabwe	Observations on Conventions Nos. 81, 87, 98, 111, 129, 144, 150, 155, 170 <i>Direct requests on Conventions Nos. 19, 81, 87, 100, 111, 155, 161, 162, 176</i>